

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 15-20652

D-3 EUGENE FISHER,  
D-4 COREY BAILEY,  
D-6 ROBERT BROWN,  
D-13 ARLANDIS SHY,  
D-19 KEITHON PORTER,

Defendants.

JURY TRIAL

Thursday, August 2, 2018

- - -

APPEARANCES:

For the Government:

JULIE FINOCCHIARO, ESQ.  
JUSTIN WECHSLER, ESQ.  
TARE WIGOD, ESQ.  
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On behalf of Corey Bailey  
  
JAMES FEINBERG, ESQ.  
On behalf of Robert Brown  
  
MARK MAGIDSON, ESQ.  
JOHN THEIS, ESQ.  
On behalf of Arlandis Shy

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STEVEN SCHARG, ESQ.  
On behalf of Keithon Porter

- - -

*To Obtain Certified Transcript, Contact:*  
*Ronald A. DiBartolomeo, Official Court Reporter*  
*Theodore Levin United States Courthouse*  
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*Detroit, Michigan 48226*  
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*Proceedings recorded by mechanical stenography.*  
*Transcript produced by computer-aided transcription.*

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Detroit, Michigan

Thursday, August 2, 2018

At 8:42 a.m.

- - -

(Proceedings held with jury.)

**THE COURT:** All right, folks. You can take  
seat.

Ms. Finocchiaro?

**MS. FINOCCHIARO:** Thank you.

The government recalls Special Agent Ruiz.

**V I C E N T E R U I Z**

being first duly sworn by the Court to tell the truth, was  
examined and testified upon his oath as follows:

**THE COURT:** State your name for the record.

**THE WITNESS:** Vicente Ruiz. V-i-c-e-n-t-e,  
R-u-i-z.

**THE COURT:** You may proceed.

**MS. FINOCCHIARO:** Thank you.

**DIRECT EXAMINATION CONT.**

1 BY MS. FINOCCHIARO:

2  
3 Q. Special Agent Ruiz?

4 A. Yes.

5 Q. I want to talk a few minutes about some of the  
6 information that you gave to Special Agent Jensen in  
7 orders to create that CAST report that we saw.

8 A. Okay.

9 Q. Before we get there, there are a few numbers that I  
10 want to go over with you.

11 Were you able to determine a phone number for  
12 Quincy Graham?

13 A. Yes, there were several numbers for Quincy Graham.

14 Q. What was the number that you got for Quincy Graham?

15 A. One of the numbers was (313)912-6642.

16 Q. Okay. And did you get subscriber information from  
17 the phone company for that specific phone number?

18 A. Yes, I did.

19 Q. Let me show you what's been marked as Government  
20 Exhibits 34 and 35. Can you explain to the jury what  
21 Government Exhibit 35 is?

22 A. These are the call detail records returned by  
23 Verizon Wireless for phone number (313)912-6642,  
24 subscriber name, Quincy Graham.

25 Q. And which exhibit is that?

1           **A.** Exhibits 35.

2           **Q.** And then is 34 the full CDR phone records for that  
3 number?

4           **A.** Yes.

5                   **MS. FINOCCHIARO:** Move for the admission of  
6 Government Exhibits 34 and 35.

7                   **THE COURT:** Any objection? The Court will  
8 receive those items.

9

10 **BY MS. FINOCCHIARO:**

11           **Q.** Now you said that there was more than one number for  
12 Mr. Graham. What was another number that you associated  
13 with Mr. Graham?

14           **A.** That number would be (205)475-7432.

15           **Q.** And how did you associate that number with Mr.  
16 Graham?

17           **A.** That was a number that was stored in Billy Arnold's  
18 contact list. I believe it was either Life or Life Dub,  
19 something like that. Dub Life.

20           **Q.** And how about for Devon McClure? Were you able to  
21 associate a number for the time period of May 2015?

22           **A.** I can't tell you the exact time frame that the  
23 number would have been tied to Devon McClure, but I was  
24 able to associate the number (734)636-6402.

25           **Q.** And how were you able to associate that number to

1 Mr. McClure?

2 A. That number was saved in Steve Arthur's contact list  
3 in his cell phone.

4 Q. Steve Arthur's contact list and Billy Arthur's (sic)  
5 contact list came out of the phones that were recovered on  
6 9-26-15 from that car chase, is that right?

7 A. You said Steve Arthur and Billy Arthur.

8 Q. Billy Arnold.

9 A. Yes, it came from that night.

10 Q. Okay. And how about Jerome Gooch. Do you have a  
11 number for Jerome Gooch?

12 A. I got a few numbers for him. The one that is  
13 relevant to this is going to be (313)920-7194, and that  
14 number was saved in Billy Arnold's contact list.

15 Q. Okay. And how about Diondre Fitzpatrick?

16 A. The number that I have for him is (313)753-4589.

17 Q. How did you associate that to Mr. Fitzpatrick?

18 A. A couple of different ways, through Andrew Thomas'  
19 contact list and Billy Arnold's contact list, and that  
20 phone was actually seized at the time of his arrest.

21 Q. Mr. Fitzpatrick's arrest?

22 A. Yes.

23 Q. I would like to to go to the CAST report for a few  
24 minutes. Go to Exhibit 36, Page 5.

25 So this page deals with activities on July 14,



1 2014. Remind the jury what's the significance of that  
2 date.

3 A. This was the date that Djuan Page, Michael Davis,  
4 Martez Davis and Corey Crawford went to the parole office.  
5 It's also the same date that Billy Arnold had a parole  
6 office visit, and Djuan Page was later shot, and so was  
7 Michael Davis.

8 Q. And approximately what time did they arrive at the  
9 hospital, Michael Davis and Djuan Page?

10 A. The emergency room report stated that the time was  
11 12:17 p.m.

12 Q. So the time that we're seeing here for the phone  
13 records is between 9:59 and 11:59 a.m.?

14 A. Correct.

15 Q. And you provided that information to Special Agent  
16 Jensen so he could create this report?

17 A. That's correct.

18 Q. And why did you choose that time frame?

19 A. It would have been the time frame that was covering  
20 both of their visits to the parole office, as well as the  
21 likely time that this crime would have occurred.

22 Q. So what we're looking at here in this report, as  
23 Special Agent Jensen said, is looking for billable events  
24 associated with the number ending in 8378, is that right?

25 A. Yes.

1 Q. That number 8378, which I believe you testified to  
2 before, is associated with Billy Arnold?

3 A. Yes, it is.

4 Q. Now did you review the billable events that we see  
5 listed in the different boxes?

6 A. I did.

7 Q. And did you find any events of interest of relevance  
8 in this case?

9 A. Yes, I did.

10 Q. Can you go through them with the jury?

11 A. So reviewing the call detail records for  
12 (313)424-8378, I recognize that there was numbers that  
13 were being contacted, both incoming and outgoing, to  
14 friends, associates of Billy Arnold.

15 The first one that I noticed was at 10:05:41.  
16 It's an incoming contact from the number (313)920-7194,  
17 which is attributed to Jerome Gooch.

18 Q. We're seeing that here on the third box?

19 A. It's in the box indicated by the Tower CID 572-1.  
20 It's the second in the row there, (313)424-8378 at  
21 10:05:41.

22 Q. Was there any other calls of significance that we  
23 saw?

24 A. There were.

25 Q. Billable events, excuse me.

1       A. There were two outgoing contacts, 10:29:34 and  
2       10:29:41, both to the number (313)784-6729, which is  
3       attributed to Corey Bailey.

4       Q. Corey Bailey?

5       A. Yes.

6       Q. That's what we're seeing here?

7       A. Yes.

8       Q. And what was the other one?

9       A. 10:29:41.

10      Q. And we see this in here on the box?

11      A. Bottom box.

12      Q. This one?

13      A. Yes, ma'am.

14      Q. Okay. And you said those were attributed to  
15      Mr. Bailey?

16      A. Yes.

17      Q. Okay. And these are in the standard times, 10:29:41  
18      a.m.?

19      A. Yes, Eastern Standard Time.

20               The next one is at 10:42:11.

21      Q. Okay.

22      A. That's an outgoing contact with Robert Brown, number  
23      (313)320-3075.

24      Q. Okay. And that's what we're seeing here. On these  
25      billable events, we're just seeing Billy Arnold's number

1 each time. When you look at the records, you're actually  
2 able to see who he was communicating with at the time?

3 A. That's correct.

4 Q. Okay?

5 A. The next number of interest or event of interest is  
6 10:48:24.

7 Q. Okay. Bottom line. Who is that with?

8 A. Outgoing to Corey Bailey, (313)784-6729.

9 Q. Okay.

10 A. After that at 10:50:16, outgoing to Jerome Gooch,  
11 (313)920-7194.

12 Q. And that again, is going to the bottom box here.  
13 That's the time right there?

14 A. Correct.

15 Q. Okay.

16 A. Next one is at 10:54:21, outgoing contact with  
17 (313)912-6642, Quincy Graham.

18 Q. Okay. This one above here, right?

19 A. Right.

20 Q. You see that?

21 A. Yes. And the one just below that at 10:55:58,  
22 outgoing contact with Devon McClure, cell phone number  
23 (734)636-6402.

24 Q. Okay. The next one?

25 A. At 10:58:40, we have incoming from Quincy Graham

1 (313)912-6642.

2 Q. That's at the top, the fourth one down that we're  
3 talking about?

4 A. Correct.

5 Q. What's the next event of interest?

6 A. At 11:11:35, incoming from Quincy Graham  
7 (313)912-6642.

8 Q. What time was that?

9 A. 11:11:35.

10 Q. That's in the second row?

11 A. Yes.

12 Q. Okay.

13 A. Then at 11:12, there's outgoing to Corey Bailey,  
14 (313)784-6729. Then again at 11:12:36, (313)784-6729.

15 Q. Okay. So the first one is in the top box, and the  
16 second one is at the bottom box, is that right?

17 A. Yes.

18 Q. Okay.

19 A. The next event is outgoing to (313)784-6729 at  
20 11:35:06, which is the second from the bottom in the  
21 middle row of the top box.

22 Q. Who was that with?

23 A. Corey Bailey. Then at 11:39:03, there's incoming  
24 from Corey Bailey (313)784-6729.

25 Q. 11:39:03?

1           **A.** Yes.

2           **Q.** Okay. At top of that top box there?

3           **A.** That's correct.

4           **Q.** Okay.

5           **A.** Those are all the numbers of relevance to this  
6 investigation.

7           **Q.** Okay. Let's move on to the next event. Let's go to  
8 Page 9 Exhibit 36.

9                       So this event happened on May 1, 2015. Can you  
10 remind the jury what the significance of that date is?

11           **A.** That was the day that Raphael Carter was shot at the  
12 corner of Troester and Queen.

13                       In addition, there was a victim, Mr. Marshall,  
14 who was sitting on his porch about three blocks down the  
15 street on Troester, who was shot in the ankle, and when  
16 his brother came home, he took him to the hospital.

17           **Q.** Approximately when did this shooting occur?

18           **A.** At approximately 7:07 p.m.

19           **Q.** So the time frame that we see here on this chart is  
20 from 6:37 p.m. to 8:29 p.m. Why did you choose this time  
21 frame for that event?

22           **A.** That surrounds the time of the crime, and wanted to  
23 demonstrate as well the movement of the phones both in and  
24 out of the area of the crime.

25           **Q.** And for the two phone numbers that we see at the

1 top, can you remind the jury, the number ending in 8378 is  
2 Billy Arnold?

3 A. That's correct.

4 Q. And the second number ending 0837 is who?

5 A. Keithon Porter.

6 MR. S. SCHARG: Objection, your Honor. There  
7 is no foundation that the phone actually belonged to  
8 Keithon Porter. Based on the evidence that was presented  
9 in the trial, there's nothing to show that that number is  
10 subscribed to Mr. Porter. All that we know is that an  
11 officer testified from the city of Warren that when he  
12 arrested Mr. Porter, he was in contact with that number.  
13 That phone was destroyed.

14 THE COURT: So to avoid a speaking objection,  
15 you're asking to bar the evidence because of the lack of  
16 foundation?

17 MR. S. SCHARG: Yes. I have no objection  
18 saying that he had contact with that phone number, but I  
19 have an objection that it is Keithon Porter's phone at  
20 this point.

21 THE COURT: Ms. Finocchiaro?

22 MS. FINOCCHIARO: The government would argue  
23 that it is associated with Keithon Porter, given that  
24 around time this occurred, he was using that number to  
25 engage in an undercover buy with the Detroit Police

1 Department on two separate occasions, on both occasions  
2 him showing up after communicating with that number. The  
3 government feels there is a proper foundation for his tie  
4 to that number.

5 **THE COURT:** All right.

6 **MR. S. SCHARG:** There's been no evidence that  
7 Mr. Porter was -- no police officer ever recovered a phone  
8 from Mr. Porter for his arrest in Warren.

9 **MS. FINOCCHIARO:** Your Honor, also --

10 **MR. S. SCHARG:** To say that it was his phone,  
11 I think that's speculation at this point. There's been no  
12 evidence of that.

13 **MS. FINOCCHIARO:** Just to add, there has been  
14 testimony that there's been contact in people's contact  
15 list with KP or lower p, Capital K with the number as  
16 well. So not only was he found with that number dealing  
17 with the police, but also it's listed as KP in people's  
18 contact list, which is relevant to the time frame, as well  
19 as the contact between SMB associates and members.

20 **THE COURT:** All right. So if you refer to it  
21 as his phone, you have reason to believe that he is  
22 connected with the number?

23 **MS. FINOCCHIARO:** Yes, that he was utilizing  
24 that number.

25 **THE COURT:** So you want to try to phrase your



1 questions in that fashion. The Court will otherwise  
2 overrule the objection, and you'll have both cross  
3 examination and argument to present.

4 You may proceed.

5 **MS. FINOCCHIARO:** Thank you, your Honor.

6  
7 **BY MS. FINOCCHIARO:**

8 **Q.** So we have two numbers that we're looking at in this  
9 chart. As with the first one when we're dealing with  
10 July 14, 2014, did you have an opportunity to review the  
11 numbers -- or the billable events on this chart to look  
12 for events of interest?

13 **A.** Yes, I did.

14 **Q.** Explain to the jury what it is that you found.

15 **A.** I found that Billy Arnold was in contact with people  
16 of interest in this investigation, people that may have  
17 been involved in this investigation.

18 **Q.** Okay. What's the significant calls that we see  
19 here -- or events that we see here?

20 **A.** The first one is going to be at 7:02:06. It's  
21 incoming contact from (205)475-7432, which is the number  
22 associated with Quincy Graham.

23 **Q.** And that's what we see right here, this box listed  
24 here as 19:02:06, but you said 7:02?

25 **A.** That's just military time versus common time.

1 Q. This is military time and the other was Eastern  
2 Standard?

3 A. Correct.

4 Q. Okay.

5 A. Just to be clear, my records are actually in UTC.  
6 So I'm subtracting four hours to get to the time.

7 Q. So what you're actually looking at are the records  
8 themselves in UTC?

9 A. That's correct.

10 Q. So are there some other events that we see here?

11 A. At 19:05:18, there's both outgoing and incoming  
12 contact with number (313)728-0167. That number is  
13 attributed to Eugene Fisher.

14 Q. That's what we see here at 7:05. We see two events  
15 with Eugene Fisher, and we have the approximate time of  
16 the crime at 7:07 p.m.?

17 A. That's correct.

18 Q. Okay.

19 A. Then at 19:05:24, there's outgoing contact from  
20 Billy Arnold to Eugene Fisher, again at (313)728-0167.

21 Q. At 19:05:24?

22 A. Yes.

23 Q. That was the one right below it?

24 A. Yes, in that box.

25 Q. Same box?

1           A. Yes.

2           Q. Okay.

3           A. Then there is incoming contact at 19:17:58, and  
4 that's from Eugene Fisher, (313)728-0167.

5           Q. That's what we see at this top box here. So this  
6 time now is 7:17:58. So this is right after the crime  
7 occurred at 7:07?

8           A. That's correct.

9           Q. Okay.

10          A. Then at 19:18:07, we see outgoing contact to Robert  
11 Brown on number (313)320-3075.

12          Q. Okay. That's right underneath there, and again,  
13 this was right after the event, the shooting?

14          A. That's correct.

15          Q. Okay.

16          A. At 19:18:56, there's outgoing contact with  
17 (205)475-7432, which is Quincy Graham.

18          Q. That's in the middle of the box right here?

19          A. Yes. The very next one at 19:24:37, is another  
20 outgoing contact to Robert Brown, (313)320-3075.

21          Q. Okay. We see that here.

22          A. Then at 19:25:17, there's an outgoing contact to  
23 Eugene Fisher at (313)728-0167.

24          Q. Okay. These calls are right after the shooting  
25 happened at 7:07?

1           A. That's correct.

2           Q. Or these contacts. Is there anything else that we  
3 see on the map?

4           A. Yes. At 20:04:40, we see outgoing contact to Robert  
5 Brown, (313)320-3075.

6           Q. 20:04:40?

7           A. Yes. Then the next one, 20:05:50, is an outgoing  
8 contact to Diondre Fitzpatrick, (313)753-4589.

9           Q. This is at 8:04 and 8:05 p.m.?

10          A. Correct. At 20:06:33, there's outgoing contact to  
11 James Robinson at (313)948-8079.

12          Q. That was James Robinson?

13          A. Yes. The next call, next contact was at 20:06:50.  
14 That is also outgoing to James Robinson at (313)948-8079.

15          Q. Okay.

16          A. And then at 20:07:44, there's an outgoing contact to  
17 Quincy Graham at (205)475-7432, and then again at  
18 20:08:22, there's outgoing contact to Quincy Graham,  
19 (205)475-7432.

20          Q. That's what we see here?

21          A. Yes.

22          Q. So on the chart we're seeing contact with various  
23 SMB and associates both before and after the shooting of  
24 Raphael Carter?

25          A. That's correct.

1           Q. Please go to Page 13 of the same exhibit.

2                       So this is the CAST chart that we saw for May 8,  
3           2015, and recall for the jury what's the significance of  
4           that date.

5           A. On May 8, 2015, there was a shooting at the corner  
6           of Duchess and Craft that occurred at approximately 6:46  
7           p.m. Devonte Roberts was killed during the shooting.  
8           Darrio Roberts was shot in the head area, and Marquis  
9           Wicker was shot multiple times in the chest and arm area,  
10          and Jesse Ritchie was the driver of that red Gran Prix,  
11          but avoided being hit with any rounds that day.

12          Q. And you said that the crime occurred at  
13          approximately 6:46 p.m. So we see a time frame here from  
14          6:41 to 6:46, is that right?

15          A. Yes.

16          Q. What made you go with that time frame for this  
17          event?

18          A. I actually gave him a longer time frame, but again,  
19          I was trying to get the time immediately before the crime  
20          and after the crime to show where the phones of interest  
21          would have moved from to get to the area of the crime, and  
22          then where they moved after the crime occurred.

23          Q. Then for this event on May 8, 2015, we see the  
24          phones utilized 8378, associated with Billy Arnold, and  
25          0837, associated with Keithon Porter?

1                   **MR. S. SCHARG:** Can we approach the bench,  
2 sidebar?

3                   **THE COURT:** All right.

4  
5                   (Sidebar conference held on the record.)  
6

7                   **MR. S. SCHARG:** I'm sorry to take up your  
8 time. I just want a continued objection. I just don't  
9 want to keep -- my client wants me to object. They never  
10 recovered a phone off of him. That number that he's --  
11 that number is not associated other than with the arrest  
12 that he had in Warren after this incident happened.

13                   Again, we don't object to the government using  
14 that number, but referencing it Mr. Arnold. That's  
15 objection, and we just want to continue the objection.

16                   **THE COURT:** She did indicate that it is  
17 connected with Keithon Porter. You will have a continued  
18 objection.

19                   **MR. S. SCHARG:** Okay. Thank you.

20                   **MS. FINOCCHIARO:** Can I say associated with?

21                   **THE COURT:** Yes.

22                   **MR. S. SCHARG:** Okay.  
23

24                   (Sidebar conference concluded.)  
25

1                   **MS. FINOCCHIARO:** Going back to the exhibit,  
2 did you review the billable events that we see associated  
3 in these boxes for this 5-15, shooting?

4           **A.** Yes, I did.

5

6 **BY MS. FINOCCHIARO:**

7           **Q.** What, if anything, did you find of interest?

8           **A.** The first event of interest was at 17:38:45. It was  
9 an outgoing contact to (313)806-0837. That number is  
10 associated with Keithon Porter.

11          **Q.** At 17:38?

12          **A.** Yes, ma'am.

13          **Q.** We don't see that on this specific chart, is that  
14 right?

15          **A.** That would show it on Slide 10.

16          **Q.** Slide 10?

17          **A.** Yes.

18          **Q.** Go to Slide 10. So if you can say again, the time  
19 of that billable event?

20          **A.** 17:38:45.

21          **Q.** Right here?

22          **A.** Yes.

23          **Q.** And again, what was the billable event?

24          **A.** Outgoing contact.

25          **Q.** Between who?

1 A. Billy Arnold and Keithon Porter.

2 Q. Okay. And what else do we see?

3 A. At 17:40:31, we've got incoming contact from  
4 (313)806-0837.

5 Q. That's right below there. That's incoming from the  
6 number associated with Keithon Porter?

7 A. Correct.

8 Q. Okay.

9 A. Then the next one is outgoing at 17:45:04.

10 Q. Okay. What is that?

11 A. Outgoing contact with Keithon Porter, (313)806-0837.

12 Q. Okay.

13 A. Then at 17:58:37, outgoing contact with  
14 (313)806-0837, Keithon Porter.

15 Q. That's what we see in this box at the top?

16 A. That's correct. Then --

17 Q. I'm sorry. Again, the crime occurred at 6:46 p.m.?

18 A. That's correct.

19 Q. This is prior to the crime?

20 A. This is prior, and it's in the area of 7211 Meadow.

21 Q. What was the significance of that address?

22 A. That was address is attributed to Robert Brown.

23 Q. What else do we see?

24 A. Did I do 18:06:14 yet?

25 Q. I don't believe so.



1           A. That's outgoing contact with (313)806-0837, Keithon  
2 Porter.

3           Q. I'm sorry. Can you say that one more time again?

4           A. 18:06:14.

5           Q. That's down in the green box?

6           A. That's correct.

7           Q. You said that was outgoing?

8           A. Yes.

9           Q. The number associated with Keithon Porter?

10          A. That's correct.

11          Q. Again, this is prior to the time of the crime?

12          A. Correct.

13          Q. Okay.

14          A. Next one is 18:14:57, which is, I think, the next  
15 slide.

16          Q. Okay. Go to the next slide.

17          A. This is an incoming call from (313)320-3075.

18          Q. That's this right here?

19          A. Yes. That's a number associated with Robert Brown.

20          Q. Okay. So is 6:14 getting closer in time to the time  
21 of the crime?

22          A. That's correct. And you can see that the cell phone  
23 device has moved out of the area of 7211 Meadow.

24          Q. And where is it moving closer to?

25          A. Closer to the area of the address 20304 Dresden.

1 Q. Who is that address associated with?

2 A. Keithon Porter.

3 Q. Okay. Is there another event that we see on this  
4 slide?

5 A. Yes.

6 Q. Okay.

7 A. At 18:15:54, there's an outgoing call to Keithon  
8 Porter at (313)806-0837.

9 Q. Okay.

10 A. Then at 18:17:33, there's an outgoing call placed to  
11 Keithon Porter at (313)806-0837.

12 Q. Okay.

13 A. Then at 18:32:36, there's --

14 Q. Is that on the next slide? Go to Page 12.

15 A. No, it's not on Slide 12.

16 Q. Okay.

17 A. That's okay.

18 Q. Page 13.

19 A. At 18:32:36, there was incoming contact from  
20 (313)806-0837.

21 Q. Okay. That's again associated with Keithon Porter?

22 A. Correct. And then 18:33:01, there was outgoing  
23 contact to (313)806-0837.

24 Q. Okay. This is now at 6:33 p.m., and the crime  
25 occurred at 6:46 p.m.?

1           A. That's correct. We're getting closer.

2           Q. Okay.

3           A. Then at 18:41:29, there's outgoing contact with  
4 Keithon Porter, (313)806-0837.

5           Q. Okay. That's what we see in this box?

6           A. In fact, all the contact between 18:41:29 and  
7 18:51:32 is outgoing with Keithon Porter at (313)806-0837.

8           Q. So what we see in this box, you're saying is  
9 outgoing to Keithon Porter here at 6:41, again at 6:41:42,  
10 6:42:17, is that right?

11          A. Is that correct.

12          Q. And that is between numbers associated with Billy  
13 Arnold and Keithon Porter?

14          A. Yes.

15          Q. And going to this box right here, you said that  
16 these are again from Billy Arnold to associated with  
17 Keithon Porter at 6:42, and then at 6:46?

18          A. So in Special Agent Jensen's presentation here, on  
19 the left you have Billy Arnold's call activity, and on the  
20 right you have Keithon Porter's call activity. They  
21 actually reflect the same activity between the two of  
22 them.

23          Q. We have activity up to the time of the shooting  
24 which occurred at 6:46 p.m.?

25          A. That's correct. So when we look at Billy Arnold's

1 records, we see outgoing contact, and when we looked at  
2 Keithon Porter's activity, we see incoming contact from  
3 the Billy Arnold's number.

4 Q. And when we look at the two red boxes on either side  
5 for the contact where it is occurring, what is that  
6 address there?

7 A. The red box is the area of the intersection of Craft  
8 and Duchess.

9 Q. Where the shooting outside occurred?

10 A. That's correct.

11 Q. This contact is occurring in this area at the time  
12 that the shooting is occurring?

13 A. That's correct.

14 Q. So is there anything else for this specific date?

15 A. Yes. At 19:13:19, we have incoming contact from  
16 (313)806-0837, Keithon Porter.

17 Q. Okay. This is after 7:13 p.m.?

18 A. That's correct.

19 Q. Okay.

20 A. Then later at 20:20:12, we see both incoming and  
21 outgoing contact to (313)671-6022, which is the number  
22 attributed to Arlandis Shy.

23 Q. Give it to me one more time.

24 A. 20:20:12.

25 Q. 20:20:12?

1           A.    So 8:20:12.

2           Q.    Do we see that here?

3           A.    Yes.

4           Q.    You said that was between Billy Arnold and Arlandis  
5           Shy?

6           A.    That's correct.

7           Q.    The times before that, because we didn't have the  
8           slide up, was 19:13 right here in this box. Those are the  
9           ones that you just looked up?

10          A.    I think it was prior to that time.

11          Q.    I apologize. Anything else that we see on this  
12          slide?

13          A.    No.

14          Q.    At this time when these calls are happening, what is  
15          the location of the center again?

16          A.    That's the address of 7211 Meadow, which is the  
17          address associated with Robert Brown.

18          Q.    This is after the time of the shooting, the calls --  
19          or the activity occurring in the area of where Robert  
20          Brown's address -- that's he associated with?

21          A.    Yes. It appears that the phones that were in the  
22          area of the crime have moved out of the area, and moved to  
23          the area of 7211 Meadow.

24                   **MR. MAGIDSON:** Objection, your Honor, to  
25          reference to the phones that were in the crime area now

1 moving to another location. Mr. Shy's phone was not at  
2 the crime area. I object to that.

3 **THE COURT:** I don't think that I caught  
4 everything that you said, but Ms. Finocchiaro?

5 **MS. FINOCCHIARO:** The government would  
6 withdraw the last question.

7 **THE COURT:** All right.

8  
9 **BY MS. FINOCCHIARO:**

10 **Q.** Anything else for 5-8-15?

11 **A.** No.

12 **Q.** Let's move on to the next event, which is Page 15,  
13 and we see this is for activity on May 10, 2015.

14 What occurred on May 10, 2015?

15 **A.** This was the shooting that occurred at the  
16 intersection of State Fair and Hoover at approximately  
17 1:40 p.m. The victims in the car were Darnell Canady,  
18 Jason Gaskin and Derrick Peterson. Derrick Peterson was  
19 shot in the foot area.

20 **Q.** And what are the phone numbers -- 8378, again, is  
21 associated with Billy Arnold?

22 **A.** That's correct.

23 **Q.** 0837 is associated with Keithon Porter?

24 **A.** Correct.

25 **Q.** And the blue number 3075, is associated with Robert

1 Brown?

2 A. That's correct.

3 Q. And again, looking at time period of 1:05 to  
4 1:59 p.m., did you give Joe Jensen -- Agent Jensen that  
5 time frame?

6 A. Yes.

7 Q. Why did you choose that time frame?

8 A. To see the activity of the phones both prior to,  
9 during the crime, and after the crime.

10 Q. Did you review these billable events depicted here  
11 to pick out ones of interest -- to see ones of interest?

12 A. Yes.

13 Q. Explain to the jury what those were.

14 A. Looking specifically at the call detail records for  
15 (313)424-8378, the first call of interest occurred at  
16 12:52:49. It was an outgoing contact to (313)806-0837,  
17 Keithon Porter.

18 Q. Okay.

19 A. Next was at 13:37:38. It was an incoming contact  
20 from (313)806-0837.

21 Q. Okay. That's what we're seeing on here. Okay.

22 A. Okay. The next was an outgoing contact at 13:40:04  
23 to (313)806-0837.

24 Q. So again, the last two that we're seeing between the  
25 numbers associated with Billy Arnold and Keithon Porter

1 are happening at 1:37 and 1:40, is that right?

2 A. That's correct. And you will also see that activity  
3 if looking at the other boxes that indicate the activity  
4 for number (313)806-0837.

5 Q. That's the activity indicated on both Billy Arnold's  
6 number and --

7 A. That's correct.

8 Q. These are happening right before and right at the  
9 time of the shooting, is that right?

10 A. That's correct.

11 Q. And what area do we see in the red box that these  
12 billable events are occurring there?

13 A. The intersection of Hoover and State Fair.

14 Q. Is that where the shooting occurred on Mother's Day?

15 A. Yes, it is.

16 Q. Is there other events -- relevant events that you  
17 found?

18 A. The next outgoing call at 13:46 is to (313)728-0167,  
19 which is Eugene Fisher's number.

20 Q. Okay. At 1:46?

21 A. That's correct.

22 Q. Okay. This is just a few minutes -- six minutes  
23 after the crime occurred?

24 A. Approximately.

25 Q. Approximately. Okay.



1       **A.** Then at 13:48:07, there's outgoing contact to with  
2       (313)806-0837.

3       **Q.** So this is at approximately 1:40, which is right  
4       after the time of the shooting?

5       **A.** Correct.

6       **Q.** So we're seeing contact with Billy Arnold and this  
7       number for Keithon Porter, both before and after of the  
8       time of the shooting?

9       **A.** That's correct.

10      **Q.** Okay. Continue with the other events.

11      **A.** Then at 13:48:36, there's outgoing contact to  
12      Arlandis Shy, (313)671-6022.

13      **Q.** That's what we see here.

14      **A.** And then the next call, this is at 13:52:48, an  
15      outgoing to (313)728-0167, Eugene Fisher.

16      **Q.** Right after the time of the shooting, you're seeing  
17      calls with -- or contact with Arlandis Shy and Eugene  
18      Fisher?

19      **A.** That's correct.

20      **Q.** All right. Anything else of billable entries on  
21      this chart?

22      **A.** Yes. So analyzing the call detail records for  
23      (313)806-0837, we see similar contact, in that there is  
24      incoming contact from Billy Arnold at 13 -- I'm sorry --  
25      yes, 13:39:59.

1 Q. You said that these are from the records of 0837.

2 So we see that at 1:39:59?

3 A. Correct.

4 Q. Okay.

5 A. Then at 13:48:08, there's incoming from Billy Arnold  
6 (313)424-8378.

7 Q. Okay.

8 A. Then at 13:53:14, there's an incoming call from  
9 Robert Brown, (313)320-3075.

10 Q. There is a call between Robert Brown to the number  
11 associated with Mr. Porter?

12 A. That's correct.

13 Q. This is shortly thereafter the time of the crime  
14 occurring?

15 A. That's correct.

16 Q. Anything else that we see from this chart?

17 A. No, ma'am.

18 MS. FINOCCHIARO: Just one moment.

19

20 BY MS. FINOCCHIARO:

21 Q. We're going to move on from -- now we heard I  
22 believe it was yesterday or day before about a search that  
23 occurred on Westphalia?

24 A. That's correct.

25 Q. Were you present at the time of the search?

1           A. Yes, I was.

2           Q. And when did the search occur?

3           A. It was in June of 2015. The exact date escapes me.

4           Q. And who was present in the house at the time of the  
5 search?

6           A. Keithon Porter, a female -- I can't remember her  
7 name -- and we learned that James Robinson had run and  
8 ended up -- was located two doors down and subsequently  
9 arrested.

10          Q. Later in your review of the text message from Billy  
11 Arnold's phone, did you see any references to that search  
12 on Westphalia?

13          A. There were text messages that indicated that he was  
14 there prior to the raid, and that he had alluded police  
15 that day.

16          Q. If we could go to Government Exhibit 20K, and going  
17 from bottom up, given that's how the time goes, what do we  
18 see here?

19          A. We're seeing contact from Billy Arnold to  
20 (313)740-5732, the contact name is Whitney, which is the  
21 mother of his child, Whitney Miller.

22          Q. Okay.

23          A. June 18, 2015 at 1:47, he sends a text just to her  
24 saying: Just ran from raid team on Westphalia.

25          Q. Did you have a team of individuals with you when you

1 searched the home on Westphalia?

2 A. Yes, quite a few of us.

3 Q. Okay. Read up the conversation between Whitney and  
4 Mr. Arnold.

5 A. She responds: WtF you need to stay away from them  
6 hot ass niggas! Wya?

7 And he responds: I'm in da alley.

8 Q. Does the conversation continue?

9 A. She responds at 2:09: Well my mama got to pick up j  
10 do you u need me to cum get u wen she get bak?

11 He responds: Y wouldn't u cone get me how could  
12 you leave me like this.

13 And she replies: I will, he gotta a be picked  
14 up frm skool she cnt be late.

15 Q. Go to the next page of this exhibit. Same  
16 conversation continues.

17 A. At 2:51 Billy sends a text: Where are you.

18 And then he sends another one: Since ur not  
19 gonna ans atleast let me knw u ok -- I'm sorry. These are  
20 message from Whitney to Billy.

21 Q. Okay?

22 A. She asked: Where are you.

23 And then she sends: Since ur not gonna ans  
24 atleast let me knw u ok.

25 Then she sends a third text message: Jus rode

1 down westphaila.

2 Billy responds: I'm good.

3 And Whitney responds: Ok.

4 Q. In further review of Billy Arnold's text, did you  
5 find texts after June 2015 with SMB associates and members  
6 between Billy Arnold?

7 A. Yes.

8 Q. If we could go to Exhibit 20H?

9 MR. FEINBERG: Which number?

10 MS. FINOCCHIARO: 20H. What do we see here?

11 A. This is a text conversation between Billy Arnold and  
12 a contact person as Sos 2, (313)433-6659, which is Devon  
13 Patterson.

14

15 BY MS. FINOCCHIARO:

16 Q. What's the conversation here?

17 A. Billy Arnold sends a text to Patterson on July 2,  
18 5:43 p.m. and says: Wya.

19 Patterson responds: We on manning.

20 Billy sends a text: Need one of them hammers I  
21 got lominel.

22 Patterson responds: Come on.

23 Q. And the name Lominel, as part of the investigation,  
24 we heard that before. Who does that refer to?

25 A. Lominel Jackson, a Six Mile guy.

1           Q. As part of your investigation, have you heard the  
2 term "hammers" before?

3           A. Yes.

4           Q. Go to 20G. And what do we see on July 10, 2015?

5           A. This is a text exchange between Billy Arnold and the  
6 contact is Pat Ju, (313)330-6367. This person is Julian  
7 Patterson, Devon Patterson's brother.

8                     The first text comes from Julian Patterson. It  
9 says: Tha police here in front of tha crib.

10                    Billy responds: Ok.

11                    Then Julian sends another text: It wasn't tha  
12 ops tho it was some random shit.

13           Q. We heard references to ops as opposition or being  
14 rivals?

15           A. Correct.

16           Q. And what do we see here?

17           A. After those text exchanges with Julian Patterson,  
18 Billy Arnold sends a text to Robert Brown, and it says:  
19 No ops some one got into it.

20                    Robert Brown responds: At capers that shit all  
21 on the net.

22           Q. This again is July 10, 2015 right after the  
23 conversation with Julian Patterson?

24           A. That's correct.

25           Q. Go to 22A, and just what kind of information are we

1 seeing off of Billy Arnold's phone?

2 A. This is a photo that was actually -- it appears to  
3 have been taken using this phone. It says that this photo  
4 was created on July 20, 2015 at 11:28:46.

5 Q. Created by the phone itself?

6 A. Correct. It's got the camera that took this photo,  
7 being Samsung SM-G386T1. It has the capture time, the  
8 pixel resolution, and then the make and model of the  
9 phone.

10 Q. Looking at the photo, what do we see in the photo?

11 A. We see a hand holding a semi-automatic pistol with  
12 an extended magazine.

13 Q. And go to 22B, again from Mr. Arnold's phone. What  
14 do we see here?

15 A. This is another photo that was captured on this cell  
16 phone device. This one was captured or created on  
17 July 23, 2015 at 4:32:39.

18 Q. Okay. And what's in this photo?

19 A. It's two semi-automatic pistols, both with extended  
20 magazines.

21 Q. And go to 22C. And what do we see here?

22 A. This is the information associated with this photo  
23 that was saved on this phone, saying that it was created  
24 on July 26, 2015 at 9:24.

25 Q. What do see in this photo?

1           **A.** I know this to be Billy Arnold, even though we can't  
2 see his face. That's Billy Arnold with two pistols in his  
3 hands with extended magazines.

4           **Q.** Go to 20AA. Now at August 3, 2015, what do we see  
5 here?

6           **A.** This is a text message from Jeffrey Adams. This is  
7 (989)325-5492. It's received by Billy Arnold on August 3,  
8 2015 at 10:24 p.m. The message is: Tryna drop a 4.

9           **Q.** This is Jeffrey Adams reaching out to Billy Arnold?

10          **A.** That's correct.

11          **Q.** Go to 23C.

12                   **MR. FEINBERG:** What number?

13                   **MS. FINOCCHIARO:** 23C.

14

15 **BY MS. FINOCCHIARO:**

16           **Q.** What do we see here on August 10, 2015?

17           **A.** We see this is a multimedia message coming from  
18 Matleah Scott, cell phone number (313)645-8854. There's  
19 no text associated with this message, only a photo.

20           **Q.** Okay. Go to the photo. What do we see here?

21           **A.** This is a screen capture from Instagram account  
22 keyia\_blessed. She posted a photo of two individuals with  
23 pistols. It's kind of a blurry photo.

24           **Q.** Okay?

25           **A.** And then she wrote: My real killers real niggas



1 hold up fake niggas fold up dumb ass, emojis, @jay\_doublle  
2 @6mile\_riptae.

3 Q. This person is tagging Six Mile members in the  
4 photo?

5 A. At least one.

6 Q. And this is a screen shot from Matleah Scott to  
7 Billy Arnold?

8 A. That's correct.

9 Q. And go to 20C. This is August 27, 2015. What do we  
10 see here?

11 A. This is a text message that was sent from Billy  
12 Arnold to Keithon Porter, number (313)806-0837.

13 Q. What does it say?

14 A. I don't know what yall niggaz doing on that  
15 situation I ain't in the middle of shit I'm getting thus  
16 money shit together I ain't on that bum shit but this what  
17 I did I told them niggaz u got they shit which is true u  
18 trying to take they shit so u going Deal with that shit  
19 I'm grown ass hell so like I told them they gotta get it  
20 in blood they know where u at so they on what they on I  
21 ain't stopping shit I'm grown ass hell it is what it is  
22 real rap.

23 Q. Go to the next page. Same date. What do we see  
24 here?

25 A. Reading from bottom to the top, we see a message

1 from Keithon Porter to Billy Arnold: Bro why u texting me  
2 all that bullshit nigga I ain't worried about nobody at  
3 all I dnt give a fuck who is dawg u on some bullshit my  
4 nigga fuck u mean get it in blood so I guess I gotta get  
5 my AR in blood to I mean be real I ain't no Hoe bro u  
6 could've called me I dnt wnt that weak ass shit they got  
7 cum on now I know where nigga at to so wat u saying dawg.

8 Q. So the text messages that we're seeing the number  
9 0837 associated with Keithon Porter saying to Billy  
10 Arnold, getting the AR in blood?

11 A. That's correct.

12 Q. And what is the text above that?

13 A. Right after that is from Billy Arnold to Keithon  
14 Porter. It says: You right.

15 Q. Continuing on here now we go September 10, 2015.  
16 What do we see here?

17 A. Billy Arnold and Keithon Porter having a text  
18 exchange. The first is from Billy Arnold to Keithon  
19 Porter. It says: So niggas talking wreckless.

20 Keithon responds: U tell me.

21 And Billy says: I don't want no smoke.

22 Q. Go back a page. I believe I skipped over a  
23 conversation up here. So going back to the conversation  
24 that happened on August 27, 2015, what do we see here?

25 A. You see another text exchange between Billy Arnold

1 and Keithon Porter. First is from Keithon. It says: Was  
2 up with my ar bro.

3 Right after Billy responds: U said what you  
4 said alright.

5 Keithon responds: yeah alright.

6 Q. Just to be clear, the number associated with Keithon  
7 Porter saying to Billy Arnold what's was up with AR?

8 A. That's correct.

9 Q. Go to 23B. This is Billy Arnold. What do we see  
10 here?

11 A. On September 15, 2015, we got two multimedia  
12 messages that arrived on his phone without any text  
13 messages, but there were two photos sent to him, one was  
14 from Matleah Scott, and other one was from Devon McClure's  
15 sister.

16 Q. Go to the photo. What do we see here?

17 A. This is an advertisement for a celebration of sorts  
18 called Block Day. The dates of that celebration was going  
19 to be Friday, September 25th at the Crazy Horse, which is  
20 located at 8140 Michigan Avenue, Detroit.

21 Q. This is the night and location that we heard about  
22 the investigation and arrests occurred with Billy Arnold  
23 Steven Arthur, Arlandis Shy and others?

24 A. That's correct, and on this advertisement is an  
25 actual photograph of Devon McClure.

1 Q. Go to 20A. Now we are on the night of the Crazy  
2 Horse party, September 25, 2015. What are we seeing here?

3 A. This is a text from Billy Arnold to Eugene Fisher at  
4 (313)728-0167. It is September 25th at about 11:22 p.m.  
5 It says: I'm coming to grab something be close.

6 Q. Billy is saying this to Eugene Fisher?

7 A. That's right.

8 Q. And what do we see here?

9 A. At 11:26, Eugene Fisher responds to Billy: At  
10 crazyhorse.

11 Then at 11:27, Billy sends a text message: I  
12 need to get in yo crib and grab my hook ups.

13 Q. So Billy is saying to Eugene Fisher he needs to go  
14 to his house to grab his hookups?

15 A. That's correct.

16 Q. And as you've testified before, hookups along with  
17 hammers, you've seen this as part of your investigation?

18 A. That's correct.

19 Q. And what do we see here?

20 A. At 11:30 Billy sends another text message to Eugene  
21 Fisher. It says: Dawg what up I'm on da move I can't be  
22 half texting what up.

23 Q. This is at 11:30 p.m.?

24 A. That's correct.

25 Q. Between Billy and Eugene Fisher?

1           A. That's correct.

2           Q. Let's talk about the night of 9-25-15 into 9-26-15.

3           Were you part of that investigation?

4           A. Yes, I was.

5           Q. Can you describe the investigation that occurred  
6           that night into the early morning hours?

7           A. Absolutely. We were aware that this party was going  
8           to occur through social media monitoring, and saw it as an  
9           opportunity to potentially do traffic stops on subjects  
10          that were likely to have guns and or drugs in their  
11          possession. So we coordinated with Michigan State Police,  
12          Detroit Police Department Tactical Response Unit, Detroit  
13          Police Department Gang Intelligence Unit, our Violent Gang  
14          Task Force was part of it, our Violent Crime Task Force  
15          was part of it. We had canine access available to us. We  
16          had air access available to us. We conducted both fixed  
17          and dynamic surveillance in the area of the Crazy Horse.

18          Q. Let me stop you there for a second. You said canine  
19          as well as air access. So you had dogs available as well  
20          as helicopters or planes?

21          A. Correct. We had -- I think the Michigan State  
22          Police Air Unit, helicopter units.

23          Q. So this was a pretty big operation?

24          A. Yes, it was.

25          Q. Both fix and dynamic surveillance. What do you mean

1 by that?

2 A. Fixed surveillance is where a person is observing  
3 without moving. I happened to be one of those people that  
4 night. Dynamic surveillance would be someone that's in a  
5 vehicle moving through the area, so that way as a target  
6 vehicle left the location, that person that's doing  
7 dynamic surveillance could follow that target vehicle out  
8 of the area.

9 Q. So what was the plan that night? You were in charge  
10 of this operation, is that right?

11 A. Yes, I was.

12 Q. What was the plan? What was to occur?

13 A. The plan was we had identified some people that we  
14 thought might be likely to carry guns that night, and to  
15 traffic stop those. Essentially, the Detroit Police  
16 Department and Michigan State Police units would be  
17 responsible for the traffic stop portion, and our units  
18 would be responsible for the surveillance portion of the  
19 operation.

20 Q. And that night after we heard about the individuals  
21 being arrested, were you there when they were brought back  
22 to be processed?

23 A. I was.

24 Q. Who was it that was arrested the night of 9-25 into  
25 9-26-15?

1       **A.** Quite a few individuals were arrested that night  
2 related to this investigation. There was a Chevy  
3 Trailblazer that was involved in high speed police chase  
4 that you heard about. In that vehicle was Billy Arnold  
5 and Steve Arthur. Both were arrested that night. There  
6 was a vehicle --

7       **Q.** Let me stop you. They were arrested with the AR-15,  
8 is that right?

9       **A.** That's correct. The AR-15 was located in that  
10 vehicle, as well as cell phones belonging to Billy Arnold  
11 and Steve Arthur.

12       **Q.** And that was the AR-15 that we heard Rebecca Smith  
13 testify about yesterday matching to the shootings that we  
14 have discussed?

15       **A.** That's correct.

16       **Q.** Please continue. Who were the other people that  
17 were arrest?

18       **A.** There was another vehicle that was stopped in which  
19 Andrew Thomas had thrown a pistol from the passenger side  
20 window. In that vehicle you had Arlandis Shy driving, you  
21 had Andrew Thomas, Jeffaun Adams and Marcus Smith. All  
22 four of them were taken to the Detroit Detention Center.  
23 And then there was a third vehicle that was stopped, in  
24 which Devon Patterson and Willie McCall were arrested and  
25 taken to the Detroit Detention Center. And there was --

1 my investigation had revealed there was a fourth car with  
2 individuals that were in attendance at the party that had  
3 been stopped, but at the time of all the activity -- there  
4 was a lot chaos stopping this many vehicles -- the  
5 Michigan State Police believed that they had the wrong  
6 vehicle and let that vehicle go, but there were actually  
7 people in that vehicle that were of interest to us to  
8 include Derrick Kennedy.

9 Q. So in your review of the cell phone data, as well as  
10 the social media data, did you see references to the party  
11 at Crazy Horse as well as the aftermath that occurred with  
12 the arrest?

13 A. Yes.

14 Q. Go to Exhibit 15, Eugene Fisher cell's phone, Page  
15 21. What do we see here? Is this the same flier that we  
16 saw on Billy Arnold's phone?

17 A. Yes.

18 Q. Announcing the party that was happening that day?

19 A. Yes.

20 Q. Go to Page 12. We saw the conversation on Billy  
21 Arnold's phone. Is that the same conversation that we see  
22 on Eugene Fisher's phone?

23 A. Yes.

24 Q. Relating to him to grab the hookups from Eugene  
25 Fisher's house?



1           A. That's correct.

2           Q. Go to Arlandis Shy's Facebook page, Exhibit 56, Page  
3 90, the very top. Here we see uploaded 9-26-15, is that  
4 correct?

5           A. Yes.

6           Q. At 5:23 UTC. Approximately what time would that be?

7           A. 1:23.

8           Q. And then we see -- it looks like another video being  
9 uploaded. What is the description of the video?

10          A. It says crazy horse right now #LongLifeBigBlock.

11          Q. When was this uploaded?

12          A. Appears it was --

13          Q. At the very bottom?

14          A. On September 26, 2015 at 12:52 Eastern Standard  
15 Time.

16          Q. Go to the video, Exhibit 56F. I want to play it  
17 through it once, and point out afterwards when we play  
18 through it again who is in the video?

19          A. Okay.

20                    (Video played.)

21          Q. You can stop it right there. All right. This time  
22 we will play it without sound. I'll have you step down  
23 and take the microphone, and let us know when to stop it.

24          A. Sure.

25          Q. Who do we see in the video?

1           A. Let's pause it there.

2           Q. Oh, I have the pause. I forgot it is right here.

3           A. The person in the Red Wing hat, red shirt, this is  
4 Derrick Kennedy.

5           Q. Okay.

6           A. You'll see him better. Stop. Go back a just a  
7 little. Right there. This person is Andrew Thomas. He's  
8 wearing all red.

9           Q. Known as Chino?

10          A. Yes.

11          Q. Okay.

12          A. Pause. The person in that white golf shirt, that  
13 was Devon Patterson. You'll see a better photo of him.  
14 Pause. This person is Arlandis Shy.

15          Q. He is doing hand signals in this video?

16          A. He is. Back to Derrick Kennedy. Pause. This is  
17 Willie McCall with the Squad T-shirt. He goes by Ill  
18 Will.

19          Q. Okay. He was in the car with Devon Patterson you  
20 said?

21          A. Yes, he was.

22          Q. What are they doing here?

23          A. Putting their money on ice. Derrick Kennedy. Devon  
24 Patterson. This is much clearer, and you see Andrew  
25 Thomas comes into the frame right here. Right there is

1 Andrew Thomas.

2 Q. Andrew Thomas was in the car with Arlandis Shy?

3 A. Yes. Pause. This is Jeffaun Adams. Jeffaun Adams  
4 and Andrew Thomas were in the car with Arlandis Shy that  
5 night.

6 Q. Go to 56G. Again, I will play it once through.

7 (Video played.)

8 So now I'll play it without sound, and you can  
9 point out who we see in the video?

10 A. Sure. Pause. This is Arlandis Shy, Derrick  
11 Kennedy.

12 Q. Okay.

13 A. Pause. This is Billy Arnold right here behind  
14 Arlandis Shy.

15 Q. You recognize the T-shirt?

16 A. I do. It's a T-shirt that says "Plead the Fifth."  
17 He was wearing it at the time of his arrest. Derrick  
18 Kennedy. This is Devon Patterson walking up. Willie  
19 McCall. Andrew Thomas in the red hoodie. Pause. That  
20 person there looks like Weez, Michael Gray. Pause. This  
21 is Marcus Smith.

22 Q. Marcus Smith was in one of the vehicles?

23 A. With Arlandis Shy, Jeffaun Adams and Andrew Thomas.

24 Q. Okay.

25 A. Willie McCall. Pause. This is Raymond Sellers,

1 King Ray, Fat Ray, Hardwork Rookie. That's Arlandis Shy.

2 Q. Okay. Let's go to Eugene Fisher's Facebook, Exhibit  
3 44, Page 6. What do we see in this post from Eugene  
4 Fisher's page?

5 A. This is a post on September 27, 2015. It's actually  
6 at 3:15 Eastern Standard Time. It says: I almost lost  
7 two year's out my life there weekend! God is, emojis,  
8 FREE MY SQUAD!

9 Q. This was -- the party went into the 26th. So this  
10 is the day after that this is posted?

11 A. Correct.

12 Q. Was Eugene Fisher arrested that night?

13 A. He was not.

14 Q. Go to Page 35. We start down here to just get the  
15 time. When was this message sent?

16 A. This is sent from Hardwork Rookie or Raymond Sellers  
17 to Eugene Fisher, September 26 -- well, actually it would  
18 have been September 25th at about 8:41 p.m.

19 Q. And go to the conversation. What do we see here?

20 A. He asks: Are going to the party.

21 Q. And it looks like Mr. Fisher replies with an image?

22 A. That's correct.

23 Q. And the conversation continues. What do we see  
24 here?

25 A. So Eugene Fisher sends Raymond Sellers his cell

1 phone number, (313)728-0167.

2 Q. All right.

3 A. And then sends another message. It says: Hmu.

4 Q. What do we see here?

5 A. This actually would be September 26th at about  
6 11:00 p.m. at night.

7 Q. Okay.

8 A. It's a message from Raymond Sellers to Eugene  
9 Fisher. It says: So did dawg & bro get jammed.

10 Q. And what did Mr. Fisher reply to that question?

11 A. Everybody but y'all.

12 Q. So Raymond Sellers, was he arrested that night?

13 A. He was not. He was in the vehicle that got away  
14 from the Michigan State Police.

15 Q. And the conversation continues. What does Raymond  
16 Sellers say back?

17 A. He says: Damn.

18 Q. All right. Next page. And what do we see here?

19 A. Next message was: I'll will just popped up at my  
20 crib. It was suppose to be Ill Will.

21 Q. Okay.

22 A. Then the next message is from Eugene Fisher to  
23 Raymond saying: Will.

24 And then there's another message from Raymond to  
25 Eugene: Thats wassup what he talkn bout.

1           Q. Just to be clear, the message where he says he just  
2 pop up at my crib, that's from Eugene Fisher to Raymond  
3 Sellers?

4           A. That's correct.

5           Q. Now after it says what's he talking about, what do  
6 we see here?

7           A. Eugene responds to Raymond: Dip.

8                     And then Raymond says: Call me.

9           Q. Dip refers to Derrick Kennedy?

10          A. That's correct.

11          Q. Go next to Page 41. What date are we seeing --  
12 first off who is this a photo of?

13          A. The person seated at the table is Eugene Fisher, and  
14 it appears to be holding an AK style rifle in his right  
15 hand. I can't see the face of the person just to his left  
16 holding an AR.

17          Q. What's the message that we see here?

18          A. On October 2, 2015 at 12:45 Eastern Standard Time,  
19 Eugene Fisher sends a message to Love Honey: The Feds  
20 just took my ar that my bro holding.

21          Q. A few days after the party, Eugene Fisher is saying  
22 the feds took his AR?

23          A. That's correct.

24          Q. And the AR was recovered from the car chase of Billy  
25 Arnold and Steve Arthur on night of 9-26-15?

1           **A.** That's correct.

2           **Q.** Go to down to the next page. So we have a  
3 conversation here. Who do we see in the conversation  
4 between here and what date?

5           **A.** This is a conversation between Eugene Fisher and  
6 Gogetter Brown.

7                   The first is from Eugene Fisher: How you doing?

8                   Gogetter Brown responds: Im doing go and u.

9                   Eugene responds: Tight fight right now.

10          **Q.** This is on 9-30-15?

11          **A.** That's correct.

12          **Q.** Continue down with this conversation, carrying over  
13 to the next page from Gogetter Brown and Eugene Fisher.  
14 We see -- what's the response there?

15          **A.** Gogetter Brown says: Why u say that?

16                   Eugene says: Everybody doing bad.

17          **Q.** How does the conversation continue?

18          **A.** Gogetter Brown responds with question mark, and  
19 Eugene responds: Feds on my niggas.

20          **Q.** And again, this was after everyone was arrested on  
21 9-26-15?

22          **A.** That's correct.

23          **Q.** Looking at the next day, what do we see on  
24 October 1, 2015?

25          **A.** Gogetter Brown sends a message: Damn somebody

1 snitching again smh i didnt know chino and b man in jail  
2 smh.

3 Q. Chino is Andrew Thomas?

4 A. That's correct.

5 Q. And B-Man is Billy Arnold?

6 A. That's correct.

7 Q. Looks like the conversation picks up down here.

8 What do you we see on October 1st?

9 A. We see a message from Charles Lee to Eugene Fisher.

10 The message is: So is it true bro Stevo telling on bro.

11 Q. And Steve-O, who does that refer to?

12 A. That's in reference to Steve Arthur.

13 Q. Steve Arthur was in the car with Billy Arnold on the  
14 night of 9-26-15?

15 A. Yes.

16 Q. What does Eugene Fisher says?

17 A. He responds: Fuck yeah, you got any warrants?

18 Q. So he's telling Charles Lee that Steve-O is telling  
19 on bro?

20 A. Yes.

21 Q. The conversation continues between Charles Lee and  
22 Eugene Fisher.

23 A. So Eugene says to Charles Lee: I need someone to go  
24 to they court date tomorrow.

25 Charles Lee responds: I got traffic tickets



1 warrants.

2 Q. It says court date tomorrow. Was there a court date  
3 on 10-2?

4 A. I believe there was.

5 Q. He says that he's got traffic tickets. What's the  
6 response?

7 A. Eugene responds: They will lock you up.

8 Q. What does Charles Lee respond in return?

9 A. Charles Lee responds: Damn for real I heard they  
10 lock Deezy up.

11 Q. Do you know what this is in reference to as part of  
12 your investigation?

13 A. I do.

14 Q. What's that?

15 A. On the date of their initial appearance, I  
16 recognized Deezy is Devon Fitzpatrick, brother of Diondre  
17 Fitzpatrick. I recognized him in the courtroom at duty  
18 court. I was also aware that he had outstanding warrants.  
19 So before he left the courthouse I arrested him in the  
20 hallway.

21 Q. What do we see here between Charles Lee and Eugene  
22 Fisher?

23 A. Eugene Fisher sends a message to Charles Lee: I'm  
24 worried he might tell on me.

25 Charles Lee responds: Damn bro that nigga know

1 to much man I done heard shit about Grimey too.

2 Q. Grymee referring to who?

3 A. Arlandis Shy.

4 Q. And how does the conversation continue?

5 A. Charles Lee sends to Eugene Fisher: Like he  
6 telling.

7 Eugene responds: Idk yet.

8 Q. Have you seen idk before?

9 A. Yes.

10 Q. Do you know what that refers to?

11 A. I don't know. That's what idk stands for. I do  
12 what idk stands for.

13 Q. And what does Eugene Fisher reply to Charles Lee?

14 A. Eugene Fisher responds: But I wouldn't doubt it.

15 Q. That's referring to the previous text about Grymee?

16 A. That's correct.

17 Q. And the conversation continues.

18 A. Charles Lee sends a message to Eugene: Yeah me  
19 either I hope not doe shit I heard they was saying they  
20 have more than one informant in they case.

21 Eugene responds: They do.

22 Charles Lee responds back: Yeah, that's what I  
23 heard shit crazy bro.

24 Q. So go to Fisher's iPad, which is 15B, Page 7, and  
25 what do we see here?

1           **A.** This is a video that was created on Septembers 27,  
2           2015 at 8:24 a.m.

3           **Q.** Okay. Just so we don't come to this page, the next  
4           one as well. What do we see here?

5           **A.** This is another video that was created on  
6           September 29, 2015 at 6:08 p.m.

7           **Q.** Go to the video for the first one that was on 9-27,  
8           if we could go to 15C for now.

9                         We will have to fix that on the break.

10                        Go to 15D, which is video from 9-29-15 from  
11           Mr. Fisher's iPad.

12                                 (Video played.)

13                         Who do we see in the video?

14           **A.** Eugene Fisher.

15           **Q.** Now at some point part of the arrest that we heard  
16           about, were there charges brought against some of the  
17           people that we've heard, and what was the date? When was  
18           the indictment?

19           **A.** Yes. There were charges. The date escape me right  
20           now.

21           **Q.** Was it around the time of the 9-26-15?

22           **A.** Yes. So initially after Billy Arnold and Steve  
23           Arthur and Andrew Thomas were arrested that night, we  
24           adopted that case federally. We complaint to them, which  
25           is our charging document, and then subsequently indicted

1       them.

2       **Q.** So looking at these phones and social media, did you  
3       see references to different -- to the indictment as well  
4       as the investigation that was ongoing at this point?

5       **A.** Yes, I did.

6       **Q.** Okay. Go to Arlandis Shy's phone, Exhibit 12, Page  
7       61.

8       **A.** I think the indictment was February 16, 2016.

9       **Q.** Okay. Off of Mr. Shy's phone, what are the dates  
10      that we're seeing for these images that we will see in a  
11      second?

12      **A.** January 16, 2016.

13      **Q.** Let's go to the actual images themselves.

14               So what are we seeing here on Mr. Shy's phone  
15      from January 16th?

16      **A.** These are screen captures of a news article done by  
17      WXYZ here in Detroit.

18      **Q.** What do we see? Can you read what the article is  
19      that he has on his phone?

20      **A.** It says: The FBI, along with about law enforcement  
21      partners have nabbed a leader of one of Detroit's  
22      deadliest gang, says US Attorney Barbara McQuade.

23               Its part of the feds' ongoing effort to  
24      dismantle that gang and others wreaking havoc on the city.

25               McQuade announced a handful of indictments,

1 after a sweep, months in the making. One of --

2 Q. Read onto the next page.

3 A. One of the leaders of the Seven Mile Bloods was  
4 stopped.

5 MR. DALY: Judge, could we have a sidebar for  
6 a second?

7  
8 (Sidebar conference on the record.)  
9

10 MR. DALY: Judge, this is a press release  
11 from the U.S. Attorney's Office. It is prejudicial. This  
12 is their theory.

13 THE COURT: Is this an exhibit?

14 MS. FINOCCHIARO: Yes, it is. He saved it on  
15 his phone. He saved that article on the phone, and later  
16 conversations with people, text messages relating to the  
17 investigation, to the indictment.

18 So we're not offering it for the truth as to  
19 what's in that article. The fact that it is information  
20 that he's saving, it's important to him to talk about it  
21 later.

22 MR. SPIELFOGEL: This is the exact kind of  
23 think that we did a jury questionnaire on about media  
24 coverage, and now you're reading in an article that was  
25 in -- or a press release that was in, what, the media.

1 That's exactly what we talked about not having in evidence  
2 in this case. It should have been removed before we began  
3 the trial on this.

4 **MS. FINOCCHIARO:** It is part of the exhibit,  
5 Exhibit 12.

6 **MR. THEIS:** If she's stating that it's not  
7 being admitted for the truth of the matter asserted, we  
8 would ask for a jury instruction.

9 First of all, we object to it being read at all,  
10 but if they are going introduce press releases from the  
11 U.S. Attorney Office, that's really a slippery slope. We  
12 can go on forever on that, but I would like a jury  
13 instruction saying that is not be admitted for the truth  
14 of any of these things.

15 **MR. SPIELFOGEL:** And Judge, our position is  
16 that it really does not cure anything. I mean, we already  
17 heard a few sentences of it already, and it's -- I mean,  
18 you hear what this is. This is highly prejudicial. It is  
19 exactly what we want to keep out. What the U.S. Attorney  
20 had to say about bringing an indictment is wholly  
21 irrelevant and prejudicial, and shouldn't be in.

22 **MS. FINOCCHIARO:** I will not read anymore  
23 from the article.

24 **MR. H. SCHARG:** The horse is out of the barn.

25 **THE COURT:** Not entirely. I'm sure there's

1 more to be heard.

2 **MS. FINOCCHIARO:** Right, there is more, but  
3 we won't read anymore of it. You can have a jury  
4 instruction that it was not offered for the truth, and  
5 there's another one, another article that we won't read.  
6 We'll just say there's another article that references the  
7 investigation.

8 **MR. DALY:** That's fine.

9 **THE COURT:** You want me to give that  
10 instruction right now?

11 **MR. THEIS:** Yes.

12 **MR. FEINBERG:** What was already admitted is  
13 very, very dangerous.

14 **MR. SPIELFOGEL:** There is nothing that we can  
15 do to undo that.

16 **MR. H. SCHARG:** I have another wish.

17 **THE COURT:** I'll take a break so you can  
18 ensure that we're in agreement with the curative  
19 instruction.

20 **MR. H. SCHARG:** I also have an objection as  
21 to the cumulative nature of the agent's testimony. He  
22 was -- he has been testifying piecemeal, and right now  
23 he's going back into evidence that he testified to earlier  
24 in the trial regarding Eugene Fisher's Facebook account,  
25 text messages, that he has already testified to. Now he's

1 being brought back in to reiterate again, and it is  
2 cumulative testimony.

3 **MS. FINOCCHIARO:** The only one to my  
4 understanding was right before -- was the one of him  
5 pointing the gun. That was brought in before when we were  
6 showing the pictures of the gun. This, he's reading it  
7 now because it's in context of what has happened, heard  
8 about the investigation, about the 9-26-15 party, the car  
9 stopped where the gun is recovered. That is a direct  
10 reference to that gun. The video has not been played  
11 before, and that's what we're doing now. They haven't  
12 been played prior to this, and I tried very hard not to  
13 have anything cumulative.

14 **THE COURT:** As to that objection, the Court  
15 will overrule it, and we'll take our break.

16 **MR. H. SCHARG:** Is the Court saying that it  
17 will allow cumulative evidence in the future?

18 **THE COURT:** It is not cumulative.

19 **MR. H. SCHARG:** At this time?

20 **THE COURT:** At this time.

21  
22 (Sidebar conference concluded.)

23  
24 **THE COURT:** We're going to take our break.  
25



1 (Jurors excused at 10:25 a.m.)

2

3 **THE COURT:** Okay. You can write out the  
4 instruction.

5 **MR. SPIELFOGEL:** We're working on it, Judge.

6 **THE COURT:** Okay. We'll take our break.  
7 We'll make this a full break so the defendants can use the  
8 facilities.

9

10 (Recess taken at 10:26 a.m.)

11

12 (Proceedings held without jury at 1:00 a.m.)

13

14 **THE COURT:** Before the jury comes in, the  
15 Court has a proposed instruction that was received from  
16 Defense counsel after consulting with the Government.

17 **MS. FINOCCHIARO:** That's correct, your Honor.

18 **THE COURT:** And I have just a couple of minor  
19 little adjustments here. It will read: "Members of the  
20 jury, you have heard testimony of a report of a press  
21 release from the United States Attorney's office. This  
22 was not offered to prove the truth of anything that was  
23 said in the press release, instead, it was offered solely  
24 to show Mr. Shy's reaction to the article" and I might  
25 even add in "your consideration of the matter should be

1 limited to that purpose."

2 **MR. SPIELFOGEL:** Absolutely.

3 **MR. DALY:** That's fine.

4 **MR. FEINBERG:** Judge, I do have something on  
5 behalf of Mr. Brown -- well, nobody wants to retry this  
6 case again. Mr. Brown and I would like to move for a  
7 mistrial arguing that the Government should have known  
8 that this was exactly the type of information that we  
9 intended to keep from the jury during the voir dire and  
10 the questionnaire, and while I'm not attributing an  
11 intentional misconduct on behalf of the Government, they  
12 should have known that this -- that we would react in the  
13 way that we did upon Barbara McQuade making the pretty  
14 outrageous statements that the SMBs were the most  
15 dangerous gang in the city of Detroit, and I'm not sure  
16 that the curative instruction -- I don't think it cures  
17 anything -- is sufficient. So we would move for a  
18 mistrial and a dismissal on the basis that it was  
19 prosecutorial misconduct.

20 **THE COURT:** All right. Thank you.

21 **MR. H. SCHARG:** Join in on behalf of  
22 Mr. Fisher.

23 **MR. SPIELFOGEL:** And, your Honor, based on  
24 the sidebar and on our agreement to limit it to the points  
25 that we have limited to, and on our request for the

1       cautionary instruction that's being given, we are not  
2       going to join in this motion.

3               **THE COURT:** All right. Thank you. The Court  
4       recognized, and I think mentioned at sidebar or may not  
5       have, but certainly there was some probative value in the  
6       evidence that was received. The question would have come  
7       down to a balancing of 403 and the probative value of the  
8       testimony in deciding whether or not to admit it.  
9       Frankly, I think this was a happy disposition of the  
10      claim, that it is testimony that -- with the curative  
11      instruction, that would affect the rights of the parties,  
12      and again, you start out recognizing that it is probative  
13      of the Defendant's reaction to the story, the fact that he  
14      saved it suggests some significant interest in the story  
15      by Mr. Shy, and the Court quite probably would have ended  
16      up in the same place as that, which the attorneys  
17      ultimately agreed upon.

18             So the Court will deny the motion as joined in by  
19      Mr. Scharg, I think, on behalf of his client.

20             So we'll bring the jury in.

21             (Jury in 11:02 a.m.)

22             **THE COURT:** All right. Folks, you can take a  
23      seat, and before we resume the testimony: Members of the  
24      jury, you have heard testimony of a report of a press  
25      release from the United States Attorney's office. This

1 was not offered to prove the truth of anything that was  
2 said in the press release. Instead, it was offered solely  
3 to show Mr. Shy's reaction to the article and your  
4 consideration of this evidence should be limited to this  
5 purpose only.

6 So with that, you may continue.

7 **MS. FINOCCHIARO:** Thank you, your Honor.

8 **BY MS. FINOCCHIARO:**

9 **Q** Special Agent Ruiz, we discussed a phone over the  
10 last couple hours that you have said is associated with  
11 Keithon Porter, but your testimony is solely based on  
12 evidence presented at this trial; is that right?

13 **A** That's correct.

14 **Q** Okay. So it's actually up to the jury to decide if  
15 that phone number was in fact used by Keithon Porter; is  
16 that correct?

17 **A** That is correct.

18 **MS. FINOCCHIARO:** Moving on from the exhibit  
19 we were at before, if we could go back to Arlandis Shy's  
20 phone, Exhibit 12, Page 101.

21 **BY MS. FINOCCHIARO:**

22 **Q** And what do we see here?

23 **A** This is a photo that's saved on the phone that was  
24 created February 18th, 2016 at approximately 2:17.

25 **MS. FINOCCHIARO:** Okay. And we'll go to the

1 actual photo itself.

2 **BY MS. FINOCCHIARO:**

3 Q What do we see here?

4 A We see an image of a person, above that says "Secret  
5 Indictment, the United States versus SMB Gry Mee-A" and  
6 then in the background it says, "Proof Proof Proof."

7 Q This was February 2016 you said this was saved on  
8 the phone?

9 A That's correct.

10 MS. FINOCCHIARO: Still with Mr. Shy's phone  
11 to Page 53.

12 **BY MS. FINOCCHIARO:**

13 Q We're not going to read the whole thing, just start  
14 at Line 302, and what are we seeing here?

15 A This is a text exchange with telephone number  
16 (586)745-5630. It's saved as Jenn. The exchange is on  
17 February 26th, 2016 at approximately 11:18.

18 Q Okay. And what do we see here?

19 A Three messages from Jenn. The first is, "I just  
20 want u to get it together man."

21 The second is, "We both need to be out here  
22 getting our life together but u don't wanna work."

23 The third, "That street shit Wack u will be the  
24 per guy."

25 Q Okay. Does the conversation continue on?

1           **A**    Yes. The next message from Jenn is, "I have shit  
2           work on to."

3           **Q**    What's the next message?

4           **A**    There's a response back to Jenn and it says, "I  
5           understand that but u you knew who I was & what I'm about  
6           before you met me, my street life don't have nothing to do  
7           wit us. I keep that shit totally separate, all u need to  
8           do is ride wit me thru thick & thin."

9           **Q**    And this is Mr. Shy's phone to Jenn?

10          **A**    That's correct.

11          **Q**    Okay. And what's the next message?

12          **A**    Jenn responds, "I'm saying tho if we was going have  
13          a bby how would u provide?"

14          **Q**    What are we seeing here?

15          **A**    Arlandis responds, "Ima make it happen, u crazy,  
16          it's funny that u really think I'm really broke like zero  
17          dollars never."

18                   She responds, "Ok well what u do to get it?"

19          **Q**    The next part of the conversation, what do we see  
20          here?

21          **A**    Shy responds he "I move how I can, u act like my  
22          team ain't under fed investigation, I'm tryna move rite, I  
23          get off papers in may, trust I'm never down for to long,  
24          that's just how the street s go, u either gon ride or not,  
25          u suppose to ride wit yo man hard times and good times."

1 Q Okay. And what is the response from Jenn?

2 A Jenn responds, "Why can't u just get a job and move  
3 on with life?"

4 Q And what is the response back?

5 A Arlandis responds, "I'm in too, baby you'll Neva  
6 understand."

7 She responds, "Smh don't have no kid then wish u  
8 the best."

9 Q What do we see here?

10 A Arlandis responds, "Alr ma."

11 Q Okay.

12 A And she says, "I'm serious u a dumb as bitch and  
13 going end up dead like nvm bye."

14 Q And does the conversation continue?

15 A She sends, "Or in jail for little bit change."

16 Next text, "Should of got swallowed."

17 Next one, "Worthless."

18 Q And what is the response?

19 A "Peace & blessings upon you Jenn love you bae."

20 Q And it looks here this is the next day, February 27,  
21 2016?

22 A This is February 27, 2016.

23 Q Okay. And what do we see here?

24 A Arlandis Shy sends a text to Jenn, "I ain't got that  
25 long to be out here I'm sorry ily hope u find somebody dat

1 treat you rite Jen real shit."

2 She responds "Smh I hate u I really do."

3 Q When we see "Smh," have you ever encountered Smh in  
4 your investigation?

5 A I have. Smh usually is an acronym for shaking my  
6 head.

7 Q What do we see here?

8 A The conversation continues, Arlandis Shy sends a  
9 text, "Dats fine Jen but I'm so stressed & depressed after  
10 hearing that mannnnn u just don't know lady."

11 She says, "Hearing what."

12 Q Okay. And what is the answer to that?

13 A Arlandis Shy sends a text, "Feds told my jrs, we  
14 already got the indictments sealed for y'all big homies."

15 Jenn asks, "U to?"

16 Arlandis Shy responds, "All the big homies."

17 MS. FINOCCHIARO: If we could next go to  
18 Robert Brown's Facebook, Exhibit 46, Page 117.

19 BY MS. FINOCCHIARO:

20 Q So what do we see here from Robert Brown's Facebook?

21 A These are a couple of posts from December 26th,  
22 2015. The first one that I can read here is "#Freesonny."

23 The next one just a minute later "#Freekillla."

24 Q And well, have you seen Sonny before?

25 A Yes.



1           Q    What does that name refer or what is that name  
2           associated with that?

3                   **MR. SPIELFOGEL:**   We'll stipulate that Sonny  
4           is Corey Bailey.

5                   **THE COURT:**   All right.   Thank you.   Go ahead.

6 **BY MS. FINOCCHIARO:**

7           Q    Okay.   And how about Killa?

8           A    Killa is the street name for Billy Arnold.

9           Q    This is December 26th of 2015, and this is after  
10          Billy's arrest on 9-26-15; is that right?

11          A    Yes, it is.

12          Q    Looks like there's another post here from  
13          December 26th what is the status?

14          A    This one says, "Woke up thinking about dropping a 4  
15          in this pop and dropping a 4 for oblock rest up  
16          #bigblood."

17                   **MS. FINOCCHIARO:**   Go to Page 3 of the same  
18          exhibit.

19 **BY MS. FINOCCHIARO:**

20          Q    What do we see here on Mr. Brown's Facebook?

21          A    On February 21st, 2016 there's a post, "Free killer  
22          B.man."

23          Q    So this is a couple months later after the last post  
24          we saw?

25          A    That's correct.

1                   **MS. FINOCCHIARO:** If we go to Jeffrey Adams  
2                   Facebook, Exhibit 43, Page 2.

3 **BY MS. FINOCCHIARO:**

4                   **Q** What do we see here?

5                   **A** On November 5th, 2015, there's a post that says  
6                   "Free Rox Dbo Zo," emojis,  
7                   "#HearNoEvilSeeNoEvilSpeakNoEvil #gang" emojis.

8                   **Q** And what was the response to that post?

9                   **A** Eugene Fisher commented, "#GANG."

10                  **Q** We see "Rox" there, we see reference to Rock or Rox?

11                  **A** Yeah. So Rock or Rocco the Don was Jeffaun Adams.

12                  **Q** And was he arrested at this time?

13                  **A** He was arrested on September 26th, 2015.

14                  **Q** How about DBo, have you seen DBo?

15                  **A** Yeah, DBo is Devon Andrews. I don't recall -- he  
16                  was not arrested on September 26th, 2015 as part of that  
17                  operation at the Crazy Horse.

18                  **Q** And the name Zo or Zo?

19                  **A** Zo is short for Berenzo, who was Billy Arnold.

20                   **MS. FINOCCHIARO:** And if we go to  
21                  Mr. Fisher's Samsung, Exhibit 15, Page 14.

22 **BY MS. FINOCCHIARO:**

23                  **Q** What is the information we see here?

24                  **A** This is a video that's saved on here that was  
25                  created on October 3rd, 2015.

1                   **MS. FINOCCHIARO:** And if we could go to the  
2 video, Exhibit 15J. Before we play that, your Honor, just  
3 to the extent it has already been admitted as part of  
4 Exhibit 15, I move for the admission of videos 15C, 15D  
5 and 15J.

6                   **THE COURT:** Any objection? Hearing none, the  
7 Court will receive the items.

8                   **MS. FINOCCHIARO:** Going back to 15J, and go  
9 ahead and play this video.

10                   (Video played for the jury.)

11                   **THE COURT:** I wasn't able to really hear  
12 that. Did you intend to have the audio considered?

13                   **MS. FINOCCHIARO:** Yes. Is it all right if we  
14 play it again?

15                   **THE COURT:** Yes.

16                   (Video played for the jury.)

17 **BY MS. FINOCCHIARO:**

18                   **Q** And who was in that video, do you recognize the  
19 person?

20                   **A** That was Eugene Fisher.

21                   **MR. H. SCHARG:** That was 15?

22                   **MS. FINOCCHIARO:** That was 15J. Go back to  
23 15C which we tried to play earlier and see if it works  
24 this time.

25                   (Video played for the jury.)

1 **BY MS. FINOCCHIARO:**

2 **Q** Now, this video, as we heard before, is from  
3 9-27-15. Who do we see in this video?

4 **A** That's Ill Will, Billy McCall wearing the Squad  
5 T-shirt.

6 **Q** Is that the Squad T-shirt or similar to the one we  
7 saw in the previous video of the night of the Crazy Horse?

8 **A** That's correct.

9 **Q** And we heard reference before in the Fisher text  
10 about "two years," that "he just saved two years."

11 Are you aware of the penalty in the state of  
12 Michigan for felony firearm?

13 **A** Yes, I am.

14 **Q** And what is the penalty for felony firearm charge?

15 **A** Two years.

16 **MS. FINOCCHIARO:** If we could go to Exhibit  
17 103B. This was previously admitted.

18 **BY MS. FINOCCHIARO:**

19 **Q** We also saw in the Facebook of Mr. Fisher earlier, a  
20 photo of him and another guy with a gun. Do you recognize  
21 what we see in this photo?

22 **A** I sure do. This is rooms at 18803 Lamont. This is  
23 like the living room and dining room area and you can see  
24 kind of into the hall to the back there.

25 **Q** And Lamont was --

1           A    That was a residence of Eugene Fisher.

2           Q    Now, we've heard some things about snitching and  
3           snitches, we've heard about Devon McClure's trial in the  
4           fall of 2014; is that right?

5           A    We did.

6           Q    And have you seen any texts or posts about --  
7           relating to that incident with Devon McClure?

8           A    Yes, yes, I have.

9                       **MS. FINOCCHIARO:**   Okay.   If we go to  
10          Mr. Fisher's Exhibit 44, Page 54.

11       **BY MS. FINOCCHIARO:**

12          Q    And so what do we see here?

13          A    This is a post on January 30th, 2015.

14          Q    And what do we see?

15          A    It says, "My nigga BLOCK beat his case 2 day!  I hit  
16          the snitching ass lil nigga in his mouth and almost went 2  
17          jail at Frank Murphy.  The lil nigga was still trying 2  
18          snitch after I hit him in his shit, some niggas never  
19          learn!  Guess he got it honest from his snitching ass  
20          momma lol.  You shouldve saw the look on their phrase  
21          faces when the jury said not guilty true."

22          Q    Are you aware of what the verdict was in that case  
23          of Devon McClure?

24          A    It was not guilty.

25          Q    Who was involved in the incident at Frank Murphy?

1           A    The fight?

2           Q    The fight.

3           A    Eugene Fisher and Derrick Kennedy.

4                   **MS. FINOCCHIARO:** Go down to the next page  
5       here.

6       **BY MS. FINOCCHIARO:**

7           Q    Is there comment to that post?

8           A    Yes, from NO Scales Brick, which is an account  
9       associated with Jeffrey Adams, it says, "#Gang," and then  
10      from Makaveli Stevo, which is an account associated with  
11      Steve Arthur, he posted some emojis.

12          Q    What do we see here?

13          A    A post from Eugene Fisher. It says, "Dip went 2  
14      jail on some bullshit can! FREE MY LIL HOMIE."

15          Q    And then going down to this post down here on  
16      Mr. Fisher's page, what do we see?

17          A    Eugene posted, "Snitches get stitches," from  
18      January 29th, 2015.

19          Q    Is there a response to that?

20          A    Yes. Steve Arthur responds, "For talking like  
21      bitches."

22                   **MS. FINOCCHIARO:** If we could go to Page 60  
23      of Mr. Fisher's account.

24       **BY MS. FINOCCHIARO:**

25          Q    And what are we seeing here?

1           **A**   A photo that's got some text on it that says, "FEDS  
2   AIN'T WATCHING NIGGAS IS TELLING."

3           **Q**   And when was this uploaded?

4           **A**   It was uploaded on July 13th, 2015.

5                   **MS. FINOCCHIARO:**   And if we go now to Jeffrey  
6   Adams' page, Exhibit 43, Page 47.

7   **BY MS. FINOCCHIARO:**

8           **Q**   And just to get -- what do we see here?

9           **A**   We see a message sent from Jeffrey Adams to Octavius  
10   Washington.

11          **Q**   Okay.   And when was this sent?

12          **A**   It was sent on October 23rd, 2014.

13          **Q**   And what is the body of that message?

14          **A**   "Aye bro i need you 2 hoe dis nigga eric rip tone  
15   dis nigga snitch on block i can't do it on my page im  
16   ridin? ? rite now tryna catch sumthin."

17          **Q**   And what do we see here?

18          **A**   Washington responds, "Snodat, wtf blood snichin on  
19   anyway."

20          **Q**   And what is the response from NO Scales Brick?

21          **A**   Adams responds, "He got on stand 2day and said block  
22   try 2 kill him an talkin shit 2 him moms bro ain't been  
23   doing shit da nigga liein on sum scared."

24          **Q**   And what else do we see in that conversation?

25          **A**   Washington sends him a message, "Damn blood

1       snitching that's fucked up my guy."

2           Q     We saw reference to Eric. Does that have any  
3       significance as part of the investigation?

4           A     Eric Bester was the complainant in the case.

5           Q     In the case against Devon McClure?

6           A     Yes, and he's the one that got into the fight with  
7       Derrick Kennedy and Eugene Fisher.

8           Q     Okay. And have you seen posts about Steven Arthur  
9       or Stevo?

10          A     Yes, I have.

11                   **MS. FINOCCHIARO:** Before we even go there  
12       let's go to Steven Arthur's page, which is Exhibit 45,  
13       Page 9.

14       **BY MS. FINOCCHIARO:**

15           Q     So what do we see here?

16           A     This is a photo that was posted. It's got a person  
17       on the top with a rifle in his hand. It says, "ON DA  
18       STREET," and below that, there's a person pointing a  
19       finger and it says, "IN COURT."

20           Q     And when was this posted on Mr. Arthur's page?

21           A     Looks like that's August 26th, 2015.

22                   **MS. FINOCCHIARO:** If we could now go to Page  
23       2 of Mr. Arthur's page.

24       **BY MS. FINOCCHIARO:**

25           Q     So what do we see in this photo?



1           **A**    This is a photo of Billy Arnold sitting in the  
2           passenger seat of a vehicle and Steve Arthur sitting in  
3           the driver's seat of the vehicle.

4           **Q**    Are the outfits of any significance to you, have you  
5           seen them before?

6           **A**    Yeah. That appears to be the clothing they were  
7           wearing the night of our operation on September 25th, 2015  
8           going into September 26th, 2015.

9                   **MS. FINOCCHIARO:** Okay. Go down to when this  
10          was posted and the information associated.

11 **BY MS. FINOCCHIARO:**

12          **Q**    When was this uploaded, this photo to Mr. Arthur's  
13          page?

14          **A**    It would have been uploaded September 26th, 2015 at  
15          12:00, 12:14 Eastern standard time, and it says, "Wit suge  
16          knight feeling like PAC before the Vegas fight," emojis.

17          **Q**    And is there later comments -- we'll do a couple. I  
18          cut it off here.

19                   What are the comments to this photo in this  
20          post?

21          **A**    On September 30th, 2015, Eugene Fisher posts, "This  
22          a real bitch nigga snitching on his the same nigga he in a  
23          picture with."

24                   And there's another post, "crying in court  
25          telling, you a hoe nigga."

1 Q And what do the other posts say?

2 A User Michael Smith asks, "Who?"

3 Eugene Fisher responds, "@MakaveliSteveo hoe  
4 ass."

5 And then Michael Smith posts, "damn when?"

6 Q And what is the response?

7 A Eugene Fisher responds, "Today."

8 And then, "All y'all like this picture and this  
9 bitch ass nigga snitched on Killa that same night! Free  
10 Killa fuck good snitching ass @Makaveli Stevo."

11 Q This is posted on what is the time here?

12 A This was October 1st, 2015, which in actuality would  
13 have been the day before September 30th.

14 MS. FINOCCHIARO: Okay. Now, if we go to the  
15 Fisher iPad, which is 15B, Page 7.

16 BY MS. FINOCCHIARO:

17 Q And what do we see here on these two postings?

18 A We've got two videos. One was created on  
19 September 30th, 2015 and 9:37 p.m. The next was created  
20 on September 30th, 2015 at 9:38 p.m.

21 MS. FINOCCHIARO: If we can go to 15M.

22 The Government was intending to play four videos,  
23 which would be 15K, 15L, 15M, 15N. So I'll move for the  
24 admission of those from Mr. Fisher's iPad.

25 THE COURT: Any objection? The Court will

1 receive the items.

2 **MS. FINOCCHIARO:** The people will move on  
3 from this, and maybe we can get it working.

4 In the meantime, if we could actually go to  
5 Mr. Adams Facebook, which is Exhibit 43, Page 3, and just  
6 going to go to the very top here.

7 **BY MS. FINOCCHIARO:**

8 **Q** What do we see this post here?

9 **A** This is posted October 2nd, 2015, it says, "Stephen  
10 romell Arthur," emojis, "federal informant."

11 **Q** And during the course of the investigation in this  
12 trial, we've heard references to Bleek; is that right?

13 **A** That's correct.

14 **Q** And do you know anyone who goes by the name of  
15 Bleek?

16 **A** Jonathan Murphy.

17 **MS. FINOCCHIARO:** If we go to Robert Brown's  
18 Facebook, Exhibit 46, Page 16.

19 **BY MS. FINOCCHIARO:**

20 **Q** What do we see here this?

21 **A** This appears to be the artwork for a CD entitled "RO  
22 DA GREAT, Betrayal, STOP BLEEKIN, T H E M I X T A P E."

23 **Q** And what do we see in the next page here, Page 17?

24 **A** We see a photo of Robert Brown wearing a T-shirt  
25 with that same artwork, the title of this photo is, "I'm

1 out no (BLEEKING) over here."

2 Q When was this uploaded?

3 A That was uploaded April 13th, 2015.

4 MS. FINOCCHIARO: If we go to Page 99 of the  
5 same exhibit.

6 BY MS. FINOCCHIARO:

7 Q What do we see here?

8 A We see a photo of a couple different individuals.  
9 One of them has their face blacked out, all way to the  
10 left.

11 Next to him is Michael Grey.

12 Can't make out the person behind Michael Grey.

13 The person in the center with a champagne bottle  
14 and a white shirt on and glasses is Robert Brown.

15 Next to him is Willie McCall, and in the brown  
16 leather jacket with maybe a Pistons jersey underneath it.

17 In front of him with a red shirt and a red ball  
18 cap is Quincy Graham.

19 And lower than him with a red shirt with a white  
20 jacket on is Devon Patterson.

21 Q Okay. And when was this posted to Mr. Brown's  
22 social media account?

23 A That was posted on December 10th, 2015.

24 Q What's the title?

25 A "TBT Holiday Hall."

1           Q   And if we go down, are there any comments here to  
2   that picture?

3           A   User John Powell posted, "Lmao the black out face."

4           Q   And is there another one as well?

5           A   Devon Patterson, "lol u Sno it."

6                       **MS. FINOCCHIARO:** And if we go to Page 2 of  
7   the same exhibit.

8   **BY MS. FINOCCHIARO:**

9           Q   And during the course of your investigation in other  
10   locations, have you seen people's faces blacked out?

11          A   Yes.

12          Q   And what do we see here?

13          A   This is a post on December 23rd, 2016. The first is  
14   at -- it would be 6:13. It says, "My brother oblock Fyg  
15   #Fuckyogang #Saynomore #Bigblood."

16                       The next post is at 9:52, same date, "Squad!!!!  
17   If u don't like me delete me no fakes on my page  
18   (Bleeking) ass niggas."

19          Q   Switching gears now back to the search warrants that  
20   we've heard about over the last couple days.

21                       Were you present for the search warrant that  
22   occurred on Charest?

23          A   Yes, I was.

24          Q   And do you remember the address for that search?

25          A   19940 Charest.

1           Q   And was anyone present in the home when you executed  
2 the search warrant?

3           A   I believe there was three people in the house,  
4 Keithon Porter, his mother and a female -- another female.

5           Q   For the Lamont search warrant, were you present for  
6 that one?

7           A   Yes, I was.

8           Q   And what was the address of that search warrant?

9           A   18803 Lamont.

10          Q   And was anyone present during that search warrant in  
11 the home?

12          A   Eugene Fisher was.

13          Q   Now, we heard about -- you were present when we  
14 discussed the search of the home associated with Robert  
15 Brown; is that right?

16          A   Yes.

17          Q   And Defense counsel asked about Government Exhibit  
18 118 being a family photo album; is that right?

19          A   That's correct.

20          Q   I'm going to hand you Government Exhibit 118.  
21 Actually I'm going to have you step down and come to the  
22 Elmo.

23                   Did you have a chance to review Government  
24 Exhibit 118?

25          A   Yes, I did.

1           Q    Were you able to identify individuals in the photos  
2 throughout the album?

3           A    Yes, I was.

4           Q    You don't have to go through each one, but if you  
5 could show who you could identify.

6           A    That's the photo of the dog.

7                   **MR. H. SCHARG:**   What's the dog's name?

8                   **THE WITNESS:**   I don't know the name of the  
9 dog.

10                   The person in here is Devon McClure.

11                   I don't know if there's a way to zoom in. That's  
12 a little bit better.

13                   That's Devon McClure.

14                   The person facing away from the camera is Corey  
15 Bailey.

16 **BY MS. FINOCCHIARO:**

17           Q    Okay. Let's go to the next page.

18           A    There's a photo of Corey Bailey. This is another  
19 photo of Corey and Devon McClure. Here's another photo of  
20 Corey.

21           Q    We don't have to go through all of them. We'll just  
22 go through a couple more.

23           A    This is a photo of Robert Brown and Prentis Graham,  
24 Quincy Graham's brother.

25                   This is a photo of Andrew Thomas, Chino, and

1 Darnell Hendrix, Jake.

2 This is a photo of Diondre Fitzpatrick, B Nice.

3 This is a photo Jerome Gooch, Rome, Dada.

4 Q There are other photos of SMB associates in there;  
5 is that right?

6 A Yes.

7 Q And in at least one of the photos, did you see any  
8 writing that indicated SMB?

9 A Yes, I did, on the back of them.

10 Q Now, I want to jump a little farther back to West  
11 Virginia. We've heard a lot of testimony about arrests  
12 that occurred in West Virginia, but before I do that I'm  
13 going to show you two pictures, see if you recognize...

14 A I recognize both of these individuals. Exhibit 543  
15 is a photo of Kenyoda Holmes. They call him Yada.

16 Q Hold on. Let's stop there for a second. So  
17 Government Exhibit 543 you said is Kenyoda Holmes.

18 MS. FINOCCHIARO: I move for the admission of  
19 Government Exhibit 543.

20 THE COURT: Any objection? Hearing none, the  
21 Court will receive the item.

22 BY MS. FINOCCHIARO:

23 Q This is who you were just referring to; is that  
24 right?

25 A That's correct.



1           Q    And how about Government Exhibit 544?

2           A    544 is a photo of Brandon Bush also known as Bobans.

3                   **MS. FINOCCHIARO:**   Move for the admission of  
4   Government Exhibit 544.

5                   **THE COURT:**   Any objection?   Hearing none, the  
6   Court will receive it.

7   **BY MS. FINOCCHIARO:**

8           Q    Is he referred to as Bobans?

9           A    Yes.

10          Q    We've heard of a lot of arrests.   Were you able to  
11   look and plot these on a map showing where the arrests  
12   occurred?

13          A    They were plotted on a map for the West Virginia  
14   arrests.

15          Q    Did you review the map where they were plotted to  
16   show the accuracy of where the different locations  
17   occurred?

18          A    I did.

19          Q    I'm going to show you what's been marked as  
20   Government's Exhibit 545.   What is that?

21          A    This is that exhibit that shows the different  
22   arrests in Charleston, West Virginia area and the  
23   individuals that were present or arrested.

24                   **MS. FINOCCHIARO:**   I move for the admission of  
25   Government Exhibit 545.

1                   **THE COURT:** Any objection? All right. The  
2                   Court will receive the item.

3 **BY MS. FINOCCHIARO:**

4           **Q** I'm going to have you come down with the laser  
5           pointer.

6                   The ones at the top here, what are we seeing  
7           here?

8           **A** Each blue bubble with the number in it represents  
9           law enforcement encounters I'll say. Each number  
10          corresponds with an address.

11                   For example, this is 601 Park. The individuals  
12          involved with that particular incident were Arlandis Shy  
13          and Kenyoda Holmes.

14                   Incident two is 1 Virginia Street West, which is  
15          this bubble here. The individuals involved were Jeffrey  
16          Adams, Kenyoda Holmes, Robert Brown and Brandon Bush.

17                   Incident three occurred at 402 Bream Street,  
18          which is right here. The individuals involved were  
19          Kenyoda Holmes, Robert Brown and Brandon Bush.

20           **Q** Okay. And for four, we'll go down this way.

21           **A** Four is at 300 Reynolds Street, which is the bus  
22          station down in Charleston, West Virginia. There were two  
23          separate incidents there. You heard about an incident  
24          where Corey Bailey and Devon McClure were both in the car  
25          and had an encounter with law enforcement, and then there

1 was another one where Arlandis Shy was being picked up by  
2 a female in which he was supposed be to meet Anthony  
3 Lovejoy.

4 The fifth is at 853 Westminster, which that was  
5 an encounter with Corey Bailey.

6 The sixth is at 808 Park, which is over here in  
7 Dunbar. That's Devon Patterson. That's when I think it  
8 was the TEC-9 was found in the nightstand.

9 Seven actually has the wrong photo here, 128 7th  
10 Street. It's a photo of Quincy Graham.

11 Q But it was Jerome Gooch who was there?

12 A That's correct.

13 Number eight up here, that was an encounter  
14 at -- I can't read the address here.

15 Q I'm sorry.

16 A 27 Hambrick Road in which Corey Bailey was  
17 encountered.

18 Then incident nine, we've got the names flip  
19 flopped or the photos flip flopped. It occurred at 1721  
20 Claire Street. Quincy Graham and Jerome Gooch were both  
21 there.

22 Q In your investigation, these individuals are from  
23 where? Are they from West Virginia?

24 A No. They're from Detroit, Michigan.

25 Q And just to get a sense of where this area of

1 Charleston, West Virginia is compared to Detroit, I'm  
2 going to show you Government's Exhibit 546, and what are  
3 we seeing in 546?

4 A This is a map. It shows a larger portion of the  
5 United States to include Michigan, Indiana, Illinois,  
6 Ohio, Pennsylvania, Kentucky, West Virginia, Virginia and  
7 Maryland, Delaware, New Jersey, New York.

8 Q Are there two things circled on this map?

9 A Yes. So the city of Detroit and the city of  
10 Charleston are both circled on this map to give you  
11 references to the distance.

12 MS. FINOCCHIARO: I move for the admission of  
13 Government Exhibit 546.

14 THE COURT: Any objection? The Court will  
15 receive the item.

16 BY MS. FINOCCHIARO:

17 Q Can you explain to the members of the jury what we  
18 are seeing here?

19 A This is the map that depicts this region of the U.S.  
20 The top circle there is around Detroit, Michigan and the  
21 bottom red circle is the city of Charleston, West  
22 Virginia.

23 Q Have you traveled from Detroit to Charleston?

24 A I have.

25 Q And is it a close or short drive?

1           **A**   No, it's not short. It's probably even longer by  
2           bus.

3           **Q**   Since we're wrapping up here a little bit. We've  
4           talked a lot about phones and phone's extraction.

5                   During the searches, we saw phones collected  
6           from the different locations; is that correct?

7           **A**   That's correct.

8           **Q**   And some of those phones were the phones that  
9           were -- the information was extracted that we've reviewed  
10          over the last several weeks?

11          **A**   Yes, to include text messages, contact lists,  
12          photos, videos, et cetera.

13          **Q**   All right. Just to confirm for the record, I'm  
14          going to show you a phone, Exhibit 337, and an extraction  
15          from that. What do we have here?

16          **A**   This document is a cell phone extraction report for  
17          an LG MS770 cell phone. That extraction was completed on  
18          February 23rd of 2018.

19          **Q**   Okay. And this phone, is this the phone that that  
20          extraction came from, it's Exhibit 337?

21          **A**   Yes, it is.

22                   **MS. FINOCCHIARO:** To the extent that the  
23          exhibit was conditionally admitted, I move for the full  
24          admission of Government Exhibit 11.

25                   **THE COURT:** Any objection? All right. The

1 Court will receive the item.

2 **BY MS. FINOCCHIARO:**

3 Q And this phone, 337, was recovered from Mr. Bailey;  
4 is that right, or Mr. Bailey's property?

5 A It was recovered from his property at the time of  
6 his arrest in July 22nd, 2014.

7 Q I'm going to show you what's been previously marked  
8 as Government Exhibit 12C, the actual phone, and Exhibit  
9 12, the download.

10 MR. FEINBERG: I'm sorry?

11 MS. FINOCCHIARO: Exhibit 12 and Exhibit 12C.

12 **BY MS. FINOCCHIARO:**

13 Q So what do we see here?

14 A Exhibit 12 is a cell phone extraction report for an  
15 LG LS665. It was a cell phone that belonged to Arlandis  
16 Shy.

17 Q And Exhibit 12C?

18 A This is the cell phone.

19 MS. FINOCCHIARO: To the extent that it  
20 hasn't admitted conditionally previously, I move for the  
21 admission of Government Exhibit 12.

22 THE COURT: Any objection? All right. The  
23 Court will receive the items.

24 **BY MS. FINOCCHIARO:**

25 Q I'm going to hand you what's been marked as

1 Government Exhibit 13 is the extraction, and Government  
2 Exhibit 85 is the actual phone. What are we seeing here?

3 **A** Government Exhibit 13 is a cell phone extraction for  
4 an LG LS620 cell phone, and this is the cell phone that  
5 was seized from 14518 Manning. This is the phone  
6 associated to Devon Patterson.

7 **MS. FINOCCHIARO:** At this time, I move for  
8 the admission of Government Exhibit 13.

9 **THE COURT:** Any objection? All right. The  
10 Court will receive the item.

11 **BY MS. FINOCCHIARO:**

12 **Q** For Government Exhibit 14, the extraction, and I'll  
13 hand you Government Exhibit 474, the phone.

14 **A** Exhibit 14 is a cell phone extraction for a Samsung  
15 SM-G386T1 and this is the Samsung SM-G386T1 cell phone.

16 **Q** And where was this recovered from?

17 **A** I believe this is -- yeah, this is James Robinson's  
18 cell phone. It was recovered at 15715 Coram.

19 **MS. FINOCCHIARO:** I move for the admission of  
20 Government Exhibit 14.

21 **THE COURT:** Any objection? The Court will  
22 receive this item of evidence.

23 **BY MS. FINOCCHIARO:**

24 **Q** I'm going to show you Government Exhibit 15, 15A and  
25 15B and the extractions from 103, 104 and 105.

1           **A**    So 15 is an extraction of an LG MS345.

2                   15A is a cell phone extraction for a Samsung  
3           GT-P3113TS.

4                   And 15B is an extraction for an iPad Air 2.

5           **Q**    And I'm handing you the phones 103, 104 and 105  
6           recovered from Lamont. What do we see there?

7           **A**    Exhibit 103 is an LG MS345 cell phone, corresponds  
8           to Exhibit 15.

9                   This is a Samsung tablet which is that Samsung  
10          GT-P3113TS.

11          **Q**    And that corresponds to 15A?

12          **A**    Yes, Government Exhibit 15A.

13                   Exhibit 105 is an iPad Air 2 and that  
14          corresponds to Government Exhibit 15B.

15                   **MS. FINOCCHIARO:** At this time, I move for  
16          the admission of Government's 15, 15A and 15B.

17                   **THE COURT:** Any objection? All right. The  
18          Court will receive these items of evidence.

19          **BY MS. FINOCCHIARO:**

20                  **Q**    I'm going to show you what's been marked as  
21          Government's Exhibit 16 and 119.

22                  **A**    Exhibit 16 is an extraction for an LG C395 cell  
23          phone.

24                   And this is an LG C395 cell phone. That's  
25          Government Exhibit 119.



1           Q    We previously heard testimony that 119 came from  
2           Robert Brown's --

3                   **MR. FEINBERG:**   I'm sorry, I can't hear you.

4           **BY MS. FINOCCHIARO:**

5           Q    Where did the Government Exhibit 119 come from?

6           A    This was seized at 6824 Lozier, Warren, Michigan, on  
7           March 1st, 2016.

8           Q    Okay. And Lozier is whose address?

9           A    It was an address that Robert Brown was at.

10          Q    I'm going to show you Government Exhibit 454, 455  
11          and 458, which corresponds -- well, and I'll show you  
12          Exhibits 19, 20 through 24 and 25.

13          A    Okay.

14          Q    Starting with Exhibit 25, I'm going to hand you  
15          what's been marked as Government Exhibit 458.

16          A    Government Exhibit 25 is a cell phone extraction of  
17          an Apple iPhone.

18                   Government Exhibit 458 is the Apple iPhone.

19                   This was recovered at the time of Billy Arnold  
20          and Steve Arthur's arrest.

21          Q    Okay. Government's Exhibits 20 through 24. I'll  
22          scroll down. I'm going to hand you Government Exhibit  
23          455.

24          A    Government Exhibit 455 is a Samsung SMG386T1. This  
25          was also seized at the time of Billy Arnold and Steve

1 Arthur's arrest on September 26, 2015.

2 Q Okay. And last I'm going to hand you Exhibit 454.

3 A Government Exhibit 454 is a Samsung SMG900V cell  
4 phone. This was also seized at the time of arrest of  
5 Billy Arnold and Steve Arthur.

6 Q And those phones correspond to the extractions that  
7 we just saw?

8 A That's correct.

9 MS. FINOCCHIARO: At this time, I move for  
10 the admission of Government Exhibits 19 through 25.

11 THE COURT: Any objection? The items are  
12 admitted.

13 BY MS. FINOCCHIARO:

14 Q And the last phone is Government Exhibit 468, which  
15 is the phone, and Government Exhibit 466, which is the  
16 extraction?

17 A Government Exhibit 468 is an LG MS323 cell phone,  
18 and Government Exhibit 466 is the corresponding cell phone  
19 extraction report.

20 Q And where was this phone recovered?

21 A I think this is the Andrew Thomas cell phone that  
22 was seized at the time of his arrest on September 26th,  
23 2015.

24 MS. FINOCCHIARO: At this time, I move for  
25 the admission of Government Exhibit 466.

1                   **THE COURT:** Any objection? The Court will  
2 admit the item.

3 **BY MS. FINOCCHIARO:**

4           **Q** So while I'm up here -- since I have my box -- as  
5 part of your investigation, did you get some tax records  
6 for certain of the individuals that we have here today?

7           **A** Yes.

8           **Q** Okay. I'm going to show you what's been marked as  
9 Government Exhibit 511. What is Government Exhibit 511?

10          **A** This is a letter from the state of Michigan  
11 Department of Treasury in Lansing. It's a certification  
12 of treasury records.

13          **Q** And does it state what the records are for?

14          **A** It does. It's for Corey Bailey.

15                   **MS. FINOCCHIARO:** At this time, I move for  
16 the admission of Government Exhibit 511.

17                   **THE COURT:** Any objection? The Court will  
18 receive the item.

19                   **MS. FINOCCHIARO:** I'm just going to publish  
20 the first page of Government Exhibit 511.

21 **BY MS. FINOCCHIARO:**

22          **Q** Agent Ruiz, can you explain what we're seeing here?

23          **A** Yes. So there is a certified record from the  
24 treasury -- the State of Michigan Department of Treasury,  
25 that says -- this is the tax records for Corey Bailey,

1 filed taxes in 2011. However, for the years of 2004  
2 through 2010 and 2012 through 2015, there were no taxes  
3 filed for Corey Bailey with the state of Michigan.

4 Q Next I'm showing you Exhibit 512. What is 512?

5 A Exhibit 512 is a similar certified record from the  
6 State of Michigan Department of Treasury. This one is for  
7 Robert Brown.

8 MS. FINOCCHIARO: At this time I move for the  
9 admission of Government Exhibit 512.

10 THE COURT: Any objection? The Court will  
11 admit the item.

12 BY MS. FINOCCHIARO:

13 Q Agent Ruiz, what are we seeing here?

14 A So in this particular letter, this reveals that  
15 Robert Brown had submitted taxes or tax returns to the  
16 state of Michigan in 2005 and in 2012. However, for the  
17 years 2004, 2006 through 2011 and 2013 through 2015,  
18 Robert Brown did not file any taxes with the state of  
19 Michigan during those years.

20 Q Showing you what's been marked as Government Exhibit  
21 513. What do we see there?

22 A This is a similar letter for Eugene Fisher.

23 Q Okay. From the Michigan -- is it a certified letter  
24 from the Department of Treasury?

25 A That's correct, for the state of Michigan.

1                   **MS. FINOCCHIARO:** I move for the admission of  
2                   Government Exhibit 513.

3                   **THE COURT:** Any objection? All right. The  
4                   Court will admit the item of evidence.

5 **BY MS. FINOCCHIARO:**

6                   **Q** And what are we seeing here?

7                   **A** This letter reveals that Eugene Fisher filed taxes  
8                   in the years 2007 and 2012. However, for the years 2004  
9                   through '6 and 2008 through '11 and 2013 through 2015, he  
10                  did not file any taxes with the state of Michigan.

11                  **Q** I'm going to show you what's been marked as Exhibit  
12                  516. What do we see here?

13                  **A** This is another certification of treasury records  
14                  from the State of Michigan Department of Treasury. These  
15                  are for Keithon Porter.

16                  **MS. FINOCCHIARO:** Move for the admission of  
17                  Government Exhibit 516.

18                  **THE COURT:** Any objection? The Court will  
19                  admit the item into evidence.

20 **BY MS. FINOCCHIARO:**

21                  **Q** And what are we seeing here?

22                  **A** This reveals that in 2007, Keithon Porter filed  
23                  taxes with the state of Michigan. However, the years 2004  
24                  through 2006 and 2008 through 2015, he did not file any  
25                  taxes with the state of Michigan.

1           **Q**   I'm going to show you what's been marked as  
2           Government Exhibit 517. What do we see here?

3           **A**   This is another certification of treasury records  
4           from the state of Michigan Department of Treasury. This  
5           is for Arlandis Shy.

6                     **MS. FINOCCHIARO:** I move for the admission of  
7           Government Exhibit 517.

8                     **THE COURT:** Any objection? The Court will  
9           admit the item into evidence.

10          **BY MS. FINOCCHIARO:**

11           **Q**   And what are we seeing here?

12           **A**   This reveals that in 2014, Arlandis Shy filed tax  
13           paperwork for the state of Michigan. However, for the  
14           years of 2004 through 2013, and then for 2015 and 2016, no  
15           taxes were filed with the state of Michigan by Arlandis  
16           Shy.

17                     **MS. FINOCCHIARO:** I think we can get the  
18           videos up.

19                     **THE COURT:** Pardon me?

20                     **MS. FINOCCHIARO:** I think we can now play  
21           videos. We're going to try one more time.

22                     **THE COURT:** All right.

23                     **MS. FINOCCHIARO:** So if we could go to video  
24           K, L, M and N -- sorry 15K, L, M and N.

25                     (Video played for the jury.)

1                   **MS. FINOCCHIARO:** Let's try 15L.

2                   (Video played for the jury.)

3 **BY MS. FINOCCHIARO:**

4           **Q**   Agent Ruiz, who are we seeing in that video, do you  
5 recognize the person?

6           **A**   I recognize that person as Eugene Fisher.

7                   **MS. FINOCCHIARO:** Okay. If we could play  
8 15M.

9                   (Video played for the jury.)

10 **BY MS. FINOCCHIARO:**

11           **Q**   And do you recognize the voice in that video?

12           **A**   That was Eugene Fisher's voice.

13                   **MS. FINOCCHIARO:** And if we could play 15N.

14                   (Video played for the jury.)

15 **BY MS. FINOCCHIARO:**

16           **Q**   And do you recognize the voice in that video?

17           **A**   That's Eugene Fisher's voice.

18           **Q**   And those videos, as we've seen before, are off of  
19 Exhibit 15B, the iPad of Eugene Fisher?

20           **A**   That's correct.

21                   **MS. FINOCCHIARO:** And there's one more from  
22 before from the iPad. This is 15C, another video. This  
23 is from 9-27-15.

24                   (Video played for the jury.)

25                   **MR. H. SCHARG:** Didn't we already play this?

1                   **MS. FINOCCHIARO:** We already played this.

2                   I'm sorry.

3                   **MR. H. SCHARG:** How many times do you want to  
4                   play it?

5                   **MS. FINOCCHIARO:** I apologize. I'm trying to  
6                   go back to the ones we missed.

7                   **MR. H. SCHARG:** I'm sorry, your Honor, that  
8                   was really an objection for you as to the cumulative  
9                   nature of some of this evidence. We're only trying to  
10                  involve you when we have to.

11                  **THE COURT:** Thank you.

12                  **MS. FINOCCHIARO:** Just one moment, your  
13                  Honor.

14 **BY MS. FINOCCHIARO:**

15                  **Q** Just to switch back to one more Facebook post from  
16                  Jeffrey Adams. Exhibit 43, Page 60, and from Mr. Adams  
17                  Facebook page, what do we see here?

18                  **A** This is a post on October 24th of 2012. It says,  
19                  "ORG S.M.B..... STR8DROP.

20                  **MS. FINOCCHIARO:** No further questions, your  
21                  Honor.

22                  **THE COURT:** All right.

23                  **MR. H. SCHARG:** Judge, can we have a meeting  
24                  with everyone regarding scheduling?

25                  **THE COURT:** All right. Sorry?



1                   **MR. H. SCHARG:** Can we have a sidebar with  
2                   you for one minute?

3                   **THE COURT:** Concerning the schedule?

4                   **MR. H. SCHARG:** Yes.

5                   **THE COURT:** Do you want to wait until after  
6                   we end the day?

7                   **MR. H. SCHARG:** That's one of the issues is  
8                   when we're going to end today.

9                   (The following sidebar conference was  
10                  held outside the hearing of the jury  
11                  12:12 p.m.):

12                  **MR. H. SCHARG:** We all thought the Government  
13                  would be done with -- we thought it would be an hour half,  
14                  two hours. How are we going -- we're not going to finish  
15                  today. I don't think we're going to finish today. You're  
16                  not going to go past 1:00?

17                  **THE COURT:** Right.

18                  **MS. FINOCCHIARO:** Do you guys think you'll go  
19                  much past 1:00?

20                  **MR. H. SCHARG:** I think someone has home  
21                  issues, child care issues. So I don't know if we can.

22                  **MR. THEIS:** I don't know what the Court's  
23                  schedule is. Would you be willing to ask the jurors if we  
24                  run over a little, does it cause a problem for them, as  
25                  opposed to coming back tomorrow morning, or if the Court

1 has a problem. We don't.

2 **MR. FEINBERG:** We're going to go more than 45  
3 minutes.

4 **MR. THEIS:** Okay. All right.

5 **MR. H. SCHARG:** Can we meet over here?

6 **MS. FINOCCHIARO:** Not with me, right?

7 (Sidebar concluded 12:14 p.m.)

8 **THE COURT:** We're going to stay until 1:00.

9 Does anybody else need to use the facilities,  
10 you're welcome to.

11 (Brief delay.)

12 **THE COURT:** Okay. Mr. Feinberg, you may  
13 proceed.

14 **CROSS EXAMINATION**

15 **BY MR. FEINBERG:**

16 **Q** In your initial testimony you stated that one of the  
17 things that --

18 **THE COURT:** Talk right into the microphone  
19 also.

20 **BY MR. FEINBERG:**

21 **Q** You indicated that one of the things that you were  
22 responsible for was to investigate homicides and nonfatal  
23 shootings, correct?

24 **A** Yes, that's correct.

25 **Q** Did you have occasion to investigate the Cleo

1 McDougal homicide?

2 A I sure did.

3 Q And during your investigation, did you become aware  
4 that Elroy Lucky Jones was tried and convicted two times  
5 for the murder of Cleo McDougal?

6 A I became aware of that, yes.

7 Q And did you become aware that Cleo McDougal's  
8 brother --

9 MS. FINOCCHIARO: Your Honor, may we approach  
10 at sidebar?

11 (The following sidebar conference was  
12 held outside the hearing of the jury at  
13 12:18 p.m.):

14 MS. FINOCCHIARO: I would just state that  
15 counsel was going to go down a line of questioning about  
16 what Mr. McDougal's brother said in identifying Mr. Jones  
17 in the first two trials. We would object to that as being  
18 hearsay testimony, and if you want to bring in his brother  
19 to testify about what he did in the first two trials,  
20 that's fine, but this witness should not be testifying  
21 about what someone said in a court proceeding that he  
22 wasn't at.

23 MR. FEINBERG: It's public record.

24 MR. BILKOVIC: Whether or not, it's still  
25 hearsay.

1                   **MS. FINOCCHIARO:** Right.

2                   **MR. BILKOVIC:** You can't bring in the  
3 testimony of somebody else that we were not part of. We  
4 were not part of that case. It's hearsay. If you want to  
5 get it out from him, you've got to call him and bring him  
6 in and put him on the stand and have him testify so we can  
7 cross examine him.

8                   **MR. FEINBERG:** It was public record --

9                   **MR. BILKOVIC:** It doesn't matter. There's no  
10 such thing in the hearsay rules --

11                  **MR. FEINBERG:** Can I finish my statement?

12                  **MR. BILKOVIC:** Go ahead.

13                  **MR. FEINBERG:** It's public record. It was  
14 transcribed. It became a certificate of conviction, that  
15 Cleo McDougal's brother testified, identified Lucky Jones  
16 as the killer and he knew Lucky Jones from the past.

17                  **MR. BILKOVIC:** Part of the reason that case  
18 was reversed is because when he was initially interviewed,  
19 he said he'd never seen these people before, and years  
20 later, people realized he was crazy. So if they want to  
21 bring him in, they can bring him in, but what he is  
22 stating about it's a public record, it's been transcribed,  
23 that doesn't get over the hearsay objection. There's no  
24 such exception if it's a public record and it's  
25 transcribed it's admissible. That's not a valid reason.

1                   **MR. FEINBERG:** There's no public record that  
2                   Cleo McDougal's brother is crazy. His testimony was  
3                   believed by two juries and it became public record.

4                   **MR. BILKOVIC:** Well, actually, the testimony  
5                   in this case is public record and there's been sufficient  
6                   testimony in this case that he's crazy.

7                   **THE COURT:** I will sustain the objection as  
8                   to hearsay.

9                   **MR. FEINBERG:** Okay.

10                   (Sidebar concluded 12:20 p.m.)

11 **BY MR. FEINBERG:**

12           **Q** So during your investigation, you did find that  
13           Elroy Lucky Jones was in fact convicted two times in front  
14           of two different juries at the Wayne County Circuit Court  
15           criminal division; is that correct?

16           **A** That is correct.

17           **Q** Okay. A lot of the Facebook and text messages you  
18           testified about with -- concerning Mr. Brown have to do  
19           with him feeling bad that certain people got killed, rest  
20           in peace certain people; is that correct?

21           **A** I think I saw some of those posts on his Facebook,  
22           yes.

23           **Q** RIP means rest in peace?

24           **A** That's correct.

25           **Q** Okay. And some of the texts or Facebook had to do

1 with free certain people that had been arrested; is that  
2 correct?

3 A That's correct.

4 Q And he was hoping that the people who got arrested  
5 would ultimately be set free; is that correct?

6 A Based on the posts, I would assume that's what he  
7 meant.

8 Q Its not unusual for people who have friends or  
9 family members who get arrested hope that they're set  
10 free, I would assume that you know that?

11 A Well, I don't know what's usual or unusual. Me,  
12 personally, I might be a little embarrassed by it.

13 Q Well, if you believed that someone was arrested  
14 improperly, would you certainly -- you would certainly  
15 hope that they would be set free, correct?

16 A I probably would, but I don't know that I'd post it  
17 on social media.

18 Q No, but you might, or you might tell your family and  
19 friends, "God, I hope my friend or my relative gets set  
20 free"?

21 A Okay.

22 Q Is that correct?

23 A Sure.

24 Q Okay. Are you a tech person? Do you use Facebook  
25 or text messages to communicate with friends or

1 associates?

2 A I would consider myself familiar, yes.

3 Q Okay. It doesn't make you a bad person?

4 A Not at all, I hope not.

5 Q One of the incidents involving Mr. Brown was the  
6 Eastland Mall incident; is that correct?

7 A Yes, that's correct.

8 Q Part of your investigation was to look into that  
9 incident, correct?

10 A To be clear, there were several incidents that  
11 occurred at Eastland Mall that I looked into.

12 Q The one involving Mr. Brown.

13 A Are you talking about the fight that occurred that  
14 we saw a video of?

15 Q That's the one I'm talking about.

16 A Yes.

17 Q Okay. And you're aware that he was arrested?

18 A Yes.

19 Q And that the court disposition was that he plead  
20 guilty to simple assault and battery, which is a  
21 misdemeanor and that there were no theft or convictions  
22 involving that incident; is that correct?

23 A Without having the court documentation in front of  
24 me, I'm not certain.

25 Q To the best of your recollection?

1           **A**    If you're suggesting that it is.

2           **Q**    Let me show you what's been marked as Defendant's --  
3           that's been admitted as Defendant Exhibit 24.

4                   **MR. FEINBERG:**   May I approach?

5                   **THE COURT:**   Yes, you may.

6 **BY MR. FEINBERG:**

7           **Q**    Is this the court record for the incident that we  
8           were talking about?

9           **A**    This is the court record for the Elroy Jones  
10          incident.

11                   **MR. FEINBERG:**   I'm sorry, your Honor.   I'll  
12          find it later, your Honor.

13 **BY MR. FEINBERG:**

14          **Q**    To the best of your recollection, do you remember  
15          that he was only convicted of a simple assault and  
16          battery?

17          **A**    No, I don't remember.   I don't.

18          **Q**    Okay.   Do you have records of that somewhere?

19          **A**    Likely in the file but not here today.

20          **Q**    Okay.   So if we go beyond today, you'd be able to  
21          find it?

22          **A**    I can certainly print out a criminal history report.

23          **Q**    Okay.   Thank you.   Were you aware that Mr. Brown had  
24          a medical marijuana card?

25          **A**    I'm not aware.



1           Q    When he was arrested I think March 1st, 2016 at his  
2 home?

3           A    Okay.

4           Q    You were present?

5           A    I was not present.

6           Q    Okay. Did you see any identification or information  
7 from Mr. Brown concerning that date and that arrest?

8           A    Oh, yeah, absolutely.

9           Q    And did he have a medical marijuana card and a  
10 caregiver card?

11          A    If he did, I don't -- I don't know it on the top of  
12 my head right now.

13          Q    That's also something else you can check?

14          A    If we seized that as part of the evidence.

15          Q    Or someone saw it, it may be in someone's report?

16          A    Okay.

17          Q    Is that correct?

18          A    If it's in somebody's report.

19          Q    Okay. You went through a bunch of photographs I  
20 guess concerning Exhibit 46?

21          A    We went through a lot of exhibits, sir. I don't  
22 recall exactly what 46 is.

23          Q    Okay. Do you know who took any or all those photos?  
24 Did you make a notation?

25          A    What photos are we talking about, sir?

1 Q Any of the photos?

2 A I'm not sure what exhibit you're referring to.

3 There's exhibits from different Facebook accounts,

4 Instagram accounts, cell phones --

5 Q Exhibit 46 --

6 A I don't --

7 Q Exhibit 46 I believe is --

8 A Is that the photo album, maybe.

9 Q The Facebook account.

10 A Okay. Whose Facebook account?

11 Q Mr. Brown.

12 A Okay.

13 Q And there's a bunch of photos in the exhibit,

14 correct?

15 A That's correct.

16 Q Do you know who posts or who took the photos?

17 A No, sir.

18 Q In a lot of the Facebook accounts where there's

19 photos, people post them and send them to various people;

20 is that correct?

21 A That's one possibility.

22 Q And sometimes a person may take the photo whose

23 account it is --

24 A That's also a possibility.

25 Q -- and send it to one person and that person may

1 send it to a multitude of people?

2 A That's also a possibility, yes.

3 Q Did you ever check on the photos that you testified  
4 to?

5 A Some of them, certainly. Yeah, we can attribute  
6 them to certain individuals' phones.

7 Q Sure, friends, acquaintances?

8 A Sure.

9 Q Okay. Nothing concerning -- necessarily concerning  
10 any criminal activity?

11 A I wouldn't go that far. Photos of a convicted felon  
12 posting photos of him or herself with a gun would be  
13 criminal activity.

14 Q I see. Have you made a determination that Mr. Brown  
15 is a convicted felon?

16 A I'm just giving you an example, a hypothetical  
17 situation.

18 Q Well, hypothetically; let's go to certainty.

19 You are aware that Mr. Brown has no felony  
20 convictions; isn't that correct?

21 A I believe that is the case with Robert Brown.

22 Q Well, that's all we're talking about.

23 A Okay.

24 Q You check everywhere, state, federal, West Virginia,  
25 anywhere, that has a database, correct?

1           **A**    Yes.

2           **Q**    When two people are talking on the either Facebook  
3 or text, what does it mean, other than they're  
4 communicating? I'll go -- I'll withdraw that.

5                   In going through all of Mr. Brown's texts and  
6 Facebook messages, did you ever see Mr. Brown saying "I am  
7 going to" or "I have committed any crime"?

8           **A**    I can't think of a specific text right now, but I'm  
9 thinking, yes. There were text messages with Billy  
10 Arnold, if I remember correctly, in which he's talking  
11 about doing deals or another example that comes to my mind  
12 is Billy Arnold was talking about a shooting that he had  
13 gotten into in which he said "Dub left me" and he's like  
14 "He gotta go." I mean that's subject to interpretation, I  
15 suppose, but could be evidence of criminal activity.

16           **Q**    Right. Your communication. Other than --

17           **A**    No, that's not my communication. That was their  
18 communication.

19           **Q**    Your interpretation of the communication?

20           **A**    Well, what else does "he gotta go" mean?

21           **Q**    Well, someone did something wrong, get rid of him,  
22 you know, send him to jail, something like that?

23           **A**    Yeah, I suppose that's another interpretation.

24           **Q**    Okay. And your communications [sic.] are usually in  
25 favor of law enforcement rather than --

1           A    My personal communications?

2           Q    Innocent communications.

3           A    My personal communications?

4           Q    No. Your interpretation of Mr. Brown's  
5           communications is in favor of law enforcement rather than  
6           innocent communications in favor of Mr. Brown?

7           A    Sir, you asked me if there were any communications  
8           in those exchanges, and I just thought of one in  
9           particular.

10          Q    Okay. One out of thousands that you have gone  
11          through; is that right?

12          A    We could certainly go through the rest of the  
13          exhibit if you'd like, sir.

14          Q    You only had two and a half years to go through all  
15          that?

16          A    And I'm supposed to remember every thousand text  
17          messages that he sent?

18          Q    Absolutely.

19          A    Seems a little, don't know, farfetched to me.

20          Q    I would assume that you would think that.

21                   Let's go into Mr. Jensen's testimony about the  
22          cell towers. Do you remember that?

23          A    I do.

24          Q    Okay. And I believe that you testified today  
25          concerning certain cell towers?

1           A    Okay.

2           Q    Involving Mr. Brown and his address in Warren?

3           A    Okay.

4           Q    Is that correct?

5           A    I did.

6           Q    Okay. During that testimony, you indicated that  
7 certain calls were close to or in some proximity to  
8 Mr. Brown's house. Do you remember that?

9           A    I think I did, yes.

10          Q    Okay. Did you determine who else lived -- now,  
11 these communications were not involving Mr. Brown,  
12 correct, they were involving other people in close  
13 proximity to where you said Mr. Brown lived?

14          A    Let me review my documents.

15          Q    Sure.

16                   The shooting that was involved on Craft and  
17 Duchess.

18          A    That one in particular, May 8th?

19          Q    Yes.

20          A    There was contact with Mr. Brown on that particular  
21 day.

22          Q    And what time was that in relation to when the  
23 incident took place?

24          A    Oh, that would have been 6:14:57, and the incident  
25 itself...

1 Q Was when?

2 A It occurred at approximately 6:46. So about a half  
3 hour later.

4 Q Okay. So 30 minutes before the incident there's  
5 information Mr. Brown and Mr. Arnold had some  
6 communication?

7 A That's correct.

8 Q Okay. Not close to 6:46 and not after 6:46; is that  
9 correct?

10 A I think close is a relative term. A half hour.

11 Q Are you and I close, to this?

12 A I think we're close.

13 Q Okay.

14 A But that's close in distance. I think we're talking  
15 about close in time.

16 Q Okay. Are we closer?

17 A We are closer now.

18 Q So close in time is relative?

19 A Absolutely.

20 Q Thirty minutes?

21 A I think that's close.

22 Q It could be not close, depending on interpretation,  
23 correct?

24 A I suppose.

25 Q Not as close as some of the other communication that

1 Mr. Arnold had?

2 A Certainly, there was other communication closer.

3 Q Did you make a determination who else lived the area  
4 of 7211 Meadow?

5 A I only looked at 7211 Meadow. I didn't look at any  
6 other addresses in that area.

7 Q Did you know where Mr. Kennedy lived at that time?

8 A No, no, I didn't.

9 Q Were you aware that Mr. Kennedy lived close to the  
10 area of Craft and Duchess?

11 A No, I'm not aware of that.

12 Q Did you ever make a determination where Mr. Kennedy  
13 lived during that period of time?

14 A A lot of different places.

15 Q I'm talking about at that time.

16 A Even at that time, he had several mothers of his  
17 children, girls that he frequented their houses. He had a  
18 house on Coram. I mean there were lots of different  
19 addresses.

20 Q So he's not -- Mr. Brown is not the only person who  
21 lived in, quote, proximity to that area that may have had  
22 contact with?

23 A Are we talking about Mr. Kennedy living near Duchess  
24 and Craft or are we talking about Mr. Brown living at 7211  
25 Meadow?



1           Q   Mr. Kennedy living in close -- somewhat close  
2 proximity of Craft and Duchess on May 8th or had  
3 connection with people who lived in that area.

4           A   Sir, I don't know where all of those women or other  
5 individuals he might have stayed with lived.

6           Q   Okay. What about Billy Arnold's girlfriend or one  
7 of his girlfriends, were you aware that she lived in that  
8 area?

9           A   Which girlfriend?

10          Q   Any girlfriend that he had on May 8th.

11          A   Well, Whitney lived -- I think it was Tacoma.  
12 Capresha lived up -- I think it was in St. Clair Shores,  
13 and I know he had quite a few girlfriends as well, from  
14 his text messages, but I wasn't able to determine where  
15 all of them lived. There was the girlfriend that he went  
16 to the house in Warren when there was a police case with  
17 Warren and DPD and -- but I don't know where all of the  
18 girls lived.

19          Q   Were you aware that one of Mr. Kennedy's locations  
20 where he lived was on Meadow in Warren?

21          A   On March 1st, 2016, as part of this operation, there  
22 was a mother of Derrick Kennedy's child that we executed a  
23 search warrant on her house in an attempt to find Derrick  
24 Kennedy that morning. He was not at that location, and  
25 that may have been on Meadow. I don't recall the exact

1 numbers of that address.

2 Q So at one time you had information that he had  
3 connection with -- to a residence on Meadow in Warren?

4 A Certainly. Well, like I said, it may have been on  
5 Meadow. I don't recall specifics.

6 Q To the best of your recollection, it was, right?

7 A Sure.

8 Q And also were you aware that one of Mr. Arnold's  
9 girlfriends also lived on Meadow in Warren?

10 A No, I'm not familiar with what girlfriend that would  
11 have been.

12 Q Because he had so many?

13 A He had a few.

14 Q The search warrant that was executed at Mr. Brown's  
15 house, other than medication that was prescribed by a  
16 doctor, was any other -- was any SMB paraphernalia or  
17 clothes found and seized from his house?

18 A There were photos -- there was a photo album we went  
19 through earlier --

20 Q Sir, I asked you if any clothes were found.

21 A You said paraphernalia, SMB paraphernalia. There  
22 were photos of individuals that had, you know, SMB writing  
23 on them.

24 Q Okay. I'll phrase it better.

25 Were any clothes seized from his house during

1 the raid that indicated SMB, 55, Hob Squad, anything like  
2 that?

3 A There may have been. We've executed a lot of search  
4 warrants as part of this investigation. Some of those  
5 houses, we had t-shirts that indicated --

6 Q Sir -- sir, I'm asking specifically Mr. Brown, not  
7 other places, not other searches.

8 A I'm suggesting that it could have been out of Mr.  
9 Brown's house.

10 Q I'm not asking you to suggest anything. I'm asking  
11 you to tell us, during your investigation and hearing  
12 Agent Shirley's testimony, was any clothing that depicted  
13 SMB, Hob Squad, 55 found at his house and seized?

14 A It's a possibility.

15 Q Have you seen any from his house during that raid?

16 A I've reviewed so much evidence from this case, I  
17 want to say there was a red bandanna that was seized at  
18 that address, but I'm not 100 percent certain.

19 Q Was it seized, is it in evidence?

20 A Yes, yes.

21 Q From his house --

22 A Like I said, I'm not 100 percent certain because  
23 I've reviewed the search warrant evidence to different  
24 locations. I don't want to say the wrong thing here.

25 Q I would never want you to say the wrong thing.

1 Any jewelry seized, I mean you heard --

2 A From Robert Brown's residence?

3 Q Yes.

4 A I don't recall. I don't think so.

5 Q What about money, any money seized?

6 A I don't recall.

7 Q Any cars?

8 A No, we didn't seize any cars.

9 Q Any assets that could be used for forfeiture?

10 A From Robert Brown?

11 Q Yes.

12 A No, sir.

13 Q In your phone, I assume you have a contact list?

14 A I certainly do.

15 Q A folder?

16 A Yes, I do.

17 Q And friends, relatives?

18 A Friends, relatives, coworkers, acquaintances,  
19 attorneys, professional contacts.

20 Q Is mine in there?

21 A No, yours is not in there, Mr. Feinberg, I'm sorry  
22 to say.

23 Q Maybe some day.

24 A Maybe.

25 Q Other than -- approximately how many contact numbers

1 were in Mr. Brown's cell phone that was seized?

2 A I have no idea.

3 Q More than just people that you felt was relevant to  
4 this investigation?

5 A Oh, certainly. Certainly. There was definitely,  
6 you know, contacts that I didn't think had any connection  
7 to this.

8 Q The same thing for text messages, there were many  
9 text messages that you saw that had nothing to do with  
10 this investigation?

11 A I would say that's --

12 Q Same thing with photos?

13 A Sure.

14 MR. FEINBERG: I have no further questions.

15 THE COURT: All right. Thank you,  
16 Mr. Feinberg. Any other cross examination?

17 CROSS EXAMINATION

18 BY MR. S. SCHARG:

19 Q Good afternoon, Agent Ruiz.

20 A Good afternoon, sir.

21 Q Just a few questions, sir, going back to the first  
22 time you testified in this case.

23 A Okay.

24 Q We got into the (313)806-0837 number.

25 A Okay.

1           Q   And the first time you testified, it came out that  
2           you testified at a prior hearing on February 12th, 2018  
3           that the number (313)806-0837 was Eugene Fisher's phone,  
4           correct?

5           A   Yes.

6           Q   And then you told us in this trial that it was a  
7           mistake that was given, and you didn't realize that until  
8           you got off the stand at that prior hearing and told the  
9           U.S. Attorney Christopher Graveline at the time, that it  
10          was a mistake or he told you that you were mistaken?

11          A   He revealed to me that I was mistaken.

12          Q   And it's fair to say that on that same day of  
13          February 12th, 2018, Assistant U.S. Attorney Julie  
14          Finocchiaro was there as well during the trial?

15          A   Yes, she was there during the trial.

16          Q   And we -- you admitted that at no time after you got  
17          off the stand was that number or that error ever  
18          corrected, correct?

19          A   No, that's not what I admitted.

20          Q   It was corrected?

21          A   I believe it was, because after I got off the stand,  
22          Chris said, "Don't worry about it, we'll correct it."

23          Q   And as far as you know, you never got back on the  
24          stand and corrected that?

25          A   No, I'm not saying that.

1           Q    Okay.

2           A    I'm assuming that we did get back on and corrected  
3           it.

4           Q    And it's fair to say you testified more than one  
5           time, like you did in this trial, correct?

6           A    I did multiple times.

7           Q    And there was a date of February 26, 2018, which was  
8           two weeks after you stated that it was Eugene Fisher's  
9           phone. Did you have a chance to review that transcript to  
10          see if you made that correction?

11          A    I read a lot of transcripts. I don't know if I read  
12          that one specifically.

13          Q    Do you want to refresh your memory to see if that  
14          was ever corrected in that transcript?

15                   Or would the Government agree that it wasn't  
16          corrected? Can we stipulate it wasn't corrected on that  
17          date on February 26th, 2018?

18                   **MS. FINOCCHIARO:** We'll stipulate.

19                   **MR. S. SCHARG:** The Government will stipulate  
20          it was not corrected on that date.

21                   **THE COURT:** All right. Thank you.

22          **BY MR. S. SCHARG:**

23          Q    Investigator Ruiz, you also testified on March 8th,  
24          2018, which was almost a month later. Do you recall  
25          testifying on that date as well?

1           **A**   Not the specific date, but I recall testifying  
2 multiple times in that trial.

3           **Q**   And would you agree with me on that date that that  
4 error was not corrected as well?

5                       Would the Government agree to that?

6                       **MS. FINOCCHIARO:** We'll agree.

7                       **MR. S. SCHARG:** The Government will stipulate  
8 to that, that it was not corrected on that date, your  
9 Honor.

10                      **THE COURT:** All right. Thank you.

11 **BY MR. S. SCHARG:**

12           **Q**   And lastly, is it fair to say that at no time during  
13 the last entire hearing before Judge Steeh that error was  
14 never corrected, sir?

15           **A**   You're saying it never got corrected, maybe it  
16 didn't.

17           **Q**   Thank you. And Investigator Ruiz, would you agree  
18 with me that the (313)806-0837, which was a Sprint number,  
19 was subscribed to a person by the name of Biljana  
20 Silvotaski (ph.)?

21           **A**   On the records I reviewed, I never got any  
22 subscriber information on it.

23           **Q**   And you also indicated the last time you testified  
24 in this case that no cell phone was taken off of  
25 Mr. Porter's possession, meaning off his person, other



1 than when he was arrested by this Police Officer Toth from  
2 the city of Warren back on November of 2015; is that fair  
3 to say?

4 A That's fair to say.

5 Q And as Officer Toth told us, and as you're the  
6 officer in charge of this case, the phone that was  
7 confiscated with Officer Toth in November of 2015 is no  
8 longer with us, it was destroyed somehow?

9 A I don't believe it was Officer Toth. That was a  
10 different officer.

11 Q Okay. But an officer from Warren that testified  
12 earlier in this trial?

13 A Regarding that narcotics transaction?

14 Q Yes, correct.

15 A There were -- if I remember correctly, there were  
16 some phones that were returned and then some phones that  
17 had been forfeited.

18 Q Investigator Ruiz, I'm showing you what's been  
19 marked as Government's Exhibit 537.

20 A I think it's 547.

21 Q 547. I'm sorry. And we saw earlier -- or you went  
22 over earlier with the Government that there were some text  
23 messages that was presented by the Government regarding  
24 messages that came from Billy Arnold's phone to phone  
25 number (313)806-0837, correct, which was Exhibit 20C?

1           **A**    I remember the text messages.  I just don't remember  
2           the exhibit number.

3           **Q**    Okay.  And let me just show you to see if this  
4           refreshes your memory -- may I approach the witness, your  
5           Honor?

6                       **THE COURT:**  Yes, you may.

7                       **THE WITNESS:**  Yes, I remember these text  
8           messages.

9   **BY MR. S. SCHARG:**

10          **Q**    And would you state the date that those messages  
11          were transferred from Mr. Arnold's phone to the 806-0837  
12          phone and vice versa?

13          **A**    You said transferred --

14          **Q**    The communication.

15          **A**    The communication occurred, the particular one you  
16          have highlighted here is August 27th, 2015 at 9:18 Eastern  
17          standard time.

18          **Q**    Okay.  And the date again was what date?

19          **A**    August 27.

20          **Q**    Which is, in the timeline of all these instances  
21          that took place during this conspiracy, it's three months  
22          or more later than when all this took place, correct?

23          **A**    It is.

24          **Q**    And you would agree with me that the same thing  
25          when -- I think it's on another page, where there was a

1 message on September 10th, 2015?

2 A I see those messages.

3 Q And those are the ones you addressed earlier with  
4 the Government on direct examination?

5 A That's correct.

6 Q And they were on September 10th, 2015, which was at  
7 least three or four months after this occurred; is that  
8 correct?

9 A That is correct.

10 Q Okay. Thank you. Investigator Ruiz, during your  
11 investigation of this matter, since 2003 up until the  
12 present date, were there any tracking devices that you had  
13 on any vehicles that tied Robert Brown and Keithon Porter  
14 together?

15 A I don't believe so.

16 Q And what about any traffic devices that could put  
17 Corey Bailey and Keithon Porter together?

18 A No, I don't believe so.

19 Q Investigator Ruiz, I'm showing the same Exhibit 20C  
20 that I asked you about with regard to the date?

21 A Yes, sir, I see that.

22 Q I see on the first line up here at the top, it says  
23 going to cell phone number (313)806-0837. In that text  
24 message, there's no contact name under that number  
25 (313)806-0837; is that fair to say?

1           **A**    You are correct. This number was not saved as a  
2           contact in that phone.

3           **Q**    So in other words, on that number, it doesn't state  
4           who that number is going to, it's just a number, no name?

5           **A**    It's just a number, no -- yeah, no name.

6           **Q**    No contact name. Okay. Thank you.

7                       Going down to the next page under I believe it's  
8           number eight where it's from (313)806-0837 and the person  
9           says "yeah alright" still there's no contact number name  
10          under that number?

11          **A**    No name, you are correct.

12          **Q**    And that goes the same for the next couple ones  
13          down; is that fair to say?

14          **A**    Every time you see that number appear in this  
15          report, it's not going to show a name.

16          **Q**    No contact name. Okay.

17                       Investigator Ruiz, you would agree with me  
18          during your investigation you became very familiar with  
19          the Red Zone as they say, correct?

20          **A**    Yes, sir, I did.

21          **Q**    And all the streets that go along with it in that  
22          area pretty much?

23          **A**    I would say most of the streets, not all.

24          **Q**    Okay. And as you indicated and testified numerous  
25          times throughout this trial, you became familiar with a

1 street called Westphalia, correct?

2 A Yes.

3 Q And Dresden?

4 A Yes.

5 Q Coram?

6 A Yes.

7 Q And you would also agree that all those streets are  
8 very close together in that area, such as in the exhibit  
9 that was used by the Government earlier on Dresden Street,  
10 they're all pretty close together?

11 A Correct.

12 MS. FINOCCHIARO: Your Honor, if we could  
13 briefly approach.

14 THE COURT: Well, we'll approach after we  
15 excuse the jurors for the day.

16 (Jury out 1:00 p.m.)

17 THE COURT: Did you work it out?

18 MS. FINOCCHIARO: We worked it out.

19 THE COURT: They worked it out.

20 All right. So we did talk briefly about a  
21 schedule for the submission of proposed jury instructions,  
22 and what I was hoping would happen is either Thursday or  
23 Friday of this coming week you get together and outline  
24 the areas of disagreement, at least for the benefit of the  
25 Court, so I can be looking at the manner in which the

1 Court will resolve the differences if you can't agree  
2 among yourselves.

3 I think for the purposes of working on these  
4 instructions, Thursday will probably work better. I  
5 understand that one or two of you would not be available  
6 but your colleagues --

7 **MR. H. SCHARG:** Your Honor, Defense counsel  
8 met last night, but we were not -- we were unproductive in  
9 that we really need to get the Government's proposed jury  
10 instructions to review before we meet with them. We've  
11 been in communication and we've been informed that they'll  
12 have the proposed set of -- proposed set of instructions  
13 to us on Wednesday, and the Court knows from the previous  
14 trial, that they're very lengthy, and I believe that  
15 there's going to be some disputes, at least in the RICO  
16 conspiracy instructions.

17 So if we get them on Wednesday, we really need at  
18 least 24 hours or longer to at least meet in person or by  
19 conference call before we can sit down and meet with them.  
20 So realistically, if we get them on Wednesday, we won't  
21 even -- we won't be prepared to meet with the Government  
22 until Friday.

23 So --

24 **MR. SPIELFOGEL:** It will be Tuesday we'll get  
25 them.

1                   **MR. H. SCHARG:** They say Tuesday now.

2                   **MR. WIGOD:** Your Honor, I informed Defense  
3 counsel we could have them to them on Tuesday.

4                   **MR. H. SCHARG:** Okay, Tuesday. So we will  
5 need a couple days to review them. So my suggestion is  
6 that we meet -- maybe meet with the Government on Friday  
7 morning and then meet with the Court on Friday afternoon  
8 or least some --

9                   **MR. WIGOD:** Your Honor, I don't know that a  
10 Friday morning and Friday afternoon time frame would work.

11                   **THE COURT:** We have Mr. Spielfogel, you'll be  
12 going home?

13                   **MR. SPIELFOGEL:** Yes, I will, Judge.

14                   **THE COURT:** So Mr. Daly, you'd be available  
15 Thursday or Friday?

16                   That's a yes?

17                   **MR. DALY:** Yes.

18                   **MR. THEIS:** Both Judge. Mr. Spielfogel and I  
19 intended not to be in Detroit, but we will be available.  
20 Certainly, Mr. Magidson and Mr. Daly will be available in  
21 person and we will be available for our positions by  
22 phone.

23                   **THE COURT:** So, you know, I think it's  
24 unlikely that we're going to be at the point of beginning  
25 the arguments until Tuesday at the earliest. Do you agree

1 with that?

2 **MR. WIGOD:** We haven't been given a firm list  
3 of witnesses for the Defendants yet.

4 **THE COURT:** So I guess if I get your proposed  
5 instructions from the Prosecution side, some kind of a  
6 response by the Defense counsel, I think we just get your  
7 competing positions in place by Friday, then we -- I mean  
8 we're not going to -- we're not even going to come close I  
9 think by Tuesday of the following week. Competing  
10 positions, well, hopefully there aren't too many that are  
11 going to fit in that category.

12 **MR. S. SCHARG:** They won't be competing.

13 **MR. THEIS:** Your Honor, it's also my  
14 understanding that the Government is going to complete  
15 their witnesses tomorrow. I think they wish to rest on  
16 Monday -- the Monday that we return from our hiatus, and  
17 do you have --

18 **THE COURT:** What about Monday when you  
19 return?

20 **MR. THEIS:** Pardon me?

21 **THE COURT:** What about Monday?

22 **MR. THEIS:** That they'll rest formally on  
23 Monday.

24 **MR. WIGOD:** Your Honor, we just prefer to  
25 have the break to make sure all our exhibits and evidence



1 are properly admitted.

2 **THE COURT:** All right.

3 **MR. WIGOD:** And we need to put on the  
4 stipulations before we rest. So we would just prefer to  
5 have the break to make sure everything is in order so  
6 there's no issues down the road.

7 **THE COURT:** Even if we are otherwise done  
8 with the testimony tomorrow?

9 **MR. WIGOD:** Correct.

10 **THE COURT:** You still want to wait until  
11 Monday?

12 **MR. MAGIDSON:** Judge, I have a witness that  
13 was writted out of the Michigan Department of Corrections  
14 that I had been debating whether to call, but in  
15 consultation with my client, he wants him called. He's at  
16 the Wayne County jail and I think we're on the tail end of  
17 the agent here, and I thought if there was still time  
18 tomorrow, I was going to just bring him in for -- I have  
19 about five minutes of direct.

20 **MR. WIGOD:** Judge, I don't -- we can  
21 conditionally rest, if everybody's comfortable with that,  
22 in order to move things along.

23 **THE COURT:** Or we just indicate that we're  
24 allowing the Defense counsel to bring this out of order.

25 **MR. WIGOD:** Right.

1                   **THE COURT:** And so if you're not -- if you  
2 don't object, we'll have that person brought in.

3                   **MR. H. SCHARG:** And I prefer not to give my  
4 opening statement until the Government rests on Monday.

5                   **THE COURT:** Yes. Well, again, this witness  
6 is the last witness?

7                   **MR. WIGOD:** Yes, your Honor.

8                   **THE COURT:** So has there been a response from  
9 Mr. Spielfogel and Mr. Daly to this e-mail that I read  
10 about the stipulation that you have worked out?

11                   **MR. SPIELFOGEL:** We agree.

12                   **MR. DALY:** We have not formally responded,  
13 but the answer is yes, we agree.

14                   **THE COURT:** Okay. All right. So we don't  
15 have to worry about that. And so what's the problem with  
16 a conditional -- allowing the Government to conditionally  
17 rest?

18                   **MR. H. SCHARG:** There is none.

19                   **MR. THEIS:** No. We would have no problem  
20 with that or not object if they ask to reopen, however we  
21 need to do it, that's not a problem. We won't stand on  
22 the formality.

23                   **THE COURT:** You agree, Mr. Scharg?

24                   **MR. H. SCHARG:** Yes.

25                   **THE COURT:** Because then you'll be up for

1 your opening.

2 **MR. H. SCHARG:** You want me to give my  
3 opening tomorrow?

4 **THE COURT:** Well, potentially I guess. It  
5 sounds like we could be there, yeah. That would be great,  
6 because you need to do your opening before the -- before  
7 we hear any of the Defense evidence, unless you -- unless,  
8 again, you work it out with your colleagues. I don't know  
9 how the Government would feel about allowing Defense  
10 counsel who has evidence to present to get into that and  
11 then hear the opening statement by Mr. Scharg. It's a  
12 little clumsy.

13 **MR. WIGOD:** Your Honor, I don't think we have  
14 a preference one way or the other whether Mr. Scharg gives  
15 opening and then the witness is called or whether the  
16 witness is called and Mr. Scharg gives opening. I don't  
17 know that it matters to us.

18 **THE COURT:** Okay. So if you feel like you  
19 need more time and your colleagues agree, because we're  
20 talking about evidence that they have to line up as well.

21 **MR. H. SCHARG:** I prefer to give it Monday  
22 when we return, and then I have a witness to call at that  
23 time.

24 **THE COURT:** Would we otherwise be finishing  
25 tomorrow if we just go -- if we --

1                   **MS. FINOCCHIARO:** Yes, your Honor.

2                   **THE COURT:** I think you better get your  
3 opening -- closing ready.

4                   **MR. H. SCHARG:** Opening.

5                   **THE COURT:** And your witness, because if we  
6 can wrap it all up tomorrow.

7                   **MR. H. SCHARG:** I can't. I have an expert  
8 witness who could not --

9                   **MR. WIGOD:** Just your opening.

10                  **MR. H. SCHARG:** The opening. Okay. The  
11 opening then, but I have a firearms identification expert  
12 who will be testifying and he's available on the Monday  
13 that we return.

14                  **THE COURT:** All right.

15                  **MR. WIGOD:** Judge, if I could digress for  
16 just a moment. Going back to jury instructions, just a  
17 question for counsel: Are we going to be getting a set of  
18 instructions from you or is it a mutual exchange or are we  
19 just giving you a set and you're going to comment on them?

20                  **MR. DALY:** I think it would be best if you  
21 send us our -- yours. Send us yours and then we'll  
22 respond to them, the ones we object to and we will propose  
23 the instructions that we want.

24                  **MR. WIGOD:** It just may be shorter, since  
25 we're somewhat on a time crunch, if we just mutually

1 exchange the ones we anticipate are going to be disputed.

2 **MR. SPIELFOGEL:** Well, we don't know until we  
3 actually see your instructions, and generally speaking, we  
4 work off the Government instructions first and -- I mean  
5 we try --

6 **THE COURT:** I think that is the simplest way  
7 of approaching it is to work from one set, in this case,  
8 the Government set, and --

9 **MR. WIGOD:** The next issue is Mr. Magidson  
10 needs to confirm with the marshals that this witness will  
11 be brought in tomorrow.

12 **MR. MAGIDSON:** We've had that discussion. I  
13 tendered the name and we just want to be sure what day,  
14 and now we know.

15 **THE COURT:** Do you know if he's here now in  
16 the Wayne County jail?

17 **MR. MAGIDSON:** Yes. I spoke with him  
18 yesterday.

19 **THE COURT:** All right. So, yeah, you make  
20 sure you coordinate with the marshals getting him brought  
21 over.

22 **MR. MAGIDSON:** I just didn't want him to wait  
23 for another week at the Wayne County jail.

24 **THE COURT:** Right. Right.

25 **MR. MAGIDSON:** And have an unhappy person.

1                   **THE COURT:** Yes. So do we know?

2                   **DEPUTY MARSHAL:** We'll make arrangements,  
3 your Honor.

4                   **THE COURT:** All right. Okay. So see the  
5 marshals.

6                   What else?

7                   **MR. FEINBERG:** Have we set a date and a time  
8 for us to meet with you to go over it --

9                   **THE COURT:** Probably do that Monday afternoon  
10 after the -- after everything else is done.

11                  **MS. FINOCCHIARO:** That works, your Honor.

12                  **MR. THEIS:** We may not even fill up the time  
13 until 1:00 on that date, especially if we use our -- if we  
14 get our witness up tomorrow, then we just have the one --  
15 well, unless there are other witnesses that I don't know  
16 about, we might even be able to start a little earlier on  
17 that Monday with the instruction evidence.

18                  **THE COURT:** All right. We have a lot to get  
19 done before argument on Tuesday. You need your  
20 instructions to incorporate into your argument.

21                  **MR. FEINBERG:** Right.

22                  **THE COURT:** So hopefully Friday we get a  
23 better sense of what arguments or disputes might be out  
24 there on Friday.

25                  **MR. THEIS:** I really anticipate, Judge, the

1 disputes are just going to be -- I mean I don't want to  
2 speak for everybody else, but there aren't going to be a  
3 lot of disagreement about most of them, but as you know,  
4 the racketeering conspiracy instructions are complicated,  
5 to say the least, and we also have related to that the  
6 substantive counts that also refer to that, and we spent a  
7 lot of time with it yesterday, and just I think -- but it  
8 will all be in that general area, I believe.

9 **THE COURT:** Okay. All right. Thanks. See  
10 you tomorrow.

11 (Proceedings concluded 1:16 p.m.)

12 - - -

13 **C E R T I F I C A T I O N**

14 We, Ronald  
15 DiBartolomeo and Andrea E. Wabeke, official court reporters for  
16 the United States District Court, Eastern District of Michigan,  
17 Southern Division, appointed pursuant to the provisions of  
18 Title 28, United States Code, Section 753, do hereby certify  
19 that the foregoing is a correct transcript of the proceedings  
20 in the above-entitled cause on the date hereinbefore set forth.  
21 We do further certify that the foregoing transcript has been  
22 prepared by us.

23 /s/Andrea E. Wabeke, 8/2/2018  
Official Court Reporter

24 /s/Ronald DiBartolomeo, 8/2/2018  
Official Court Reporter

25 - - -